

**MEMORANDUM OF AGREEMENT TO FORM A
GROUNDWATER SUSTAINABILITY AGENCY
FOR THE YUCAIPA SUB-BASIN
(Sub-basin No. 8-02.07)**

This 2017 Memorandum of Agreement ("MOA") is entered into by and among: South Mesa Water Company ("SOUTH MESA"), South Mountain Water Company ("SOUTH MOUNTAIN"), Western Heights Water Company ("WESTERN HEIGHTS") and Yucaipa Valley Water District ("YVWD"), herein collectively referred to as the "WATER PURVEYORS"; and, the City of Calimesa ("CALIMESA"), the City of Redlands ("REDLANDS") and the City of Yucaipa ("YUCAIPA"), herein collectively referred to as the "MUNICIPALITIES"; and, the San Bernardino Valley Municipal Water District ("SAN BERNARDINO VALLEY MUNICIPAL") and the San Gorgonio Pass Water Agency ("SAN GORGONIO"), herein collectively referred to as the "REGIONALS." The MUNICIPALITIES are sometimes herein collectively referred to as the "LAND USE AGENCIES." Each of the above-described entities is individually referred to as a "Party" and are collectively referred to as the "Parties". For purposes of this MOA, SOUTH MESA, SOUTH MOUNTAIN and WESTERN HEIGHTS are collectively referred to as the "MUTUALS"; and, the Parties other than the MUTUALS are collectively referred to as the "LOCAL AGENCIES."

Pursuant to the Sustainable Groundwater Management Act ("SGMA") and as further set forth herein, the purpose of this MOA is to form a Groundwater Sustainability Agency ("GSA") for the entire Yucaipa Sub-basin (Basin or Sub-Basin No. 8-02.07), in order to preserve local management and control of the Basin as set forth under SGMA.

The County of Riverside ("RIVERSIDE") and the County of San Bernardino ("SAN BERNARDINO"), collectively "COUNTIES," shall be considered "Stakeholders" but not Parties to this MOA.

Recitals

WHEREAS, on September 16, 2014, Governor Jerry Brown signed into law Senate Bills 1168 and 1319, and Assembly Bill 1739, collectively known as the Sustainable Groundwater Management Act ("SGMA"), codified in certain provisions of the California Government Code, including commencing with Section 65350.5, and codified in Part 2.74 of Division 6 of the California *Water Code*, commencing with Section 10720, and amending other provisions of the California *Government Code* and California *Water Code*; and

WHEREAS, SGMA went into effect on January 1, 2015; and,

WHEREAS, various clarifying amendments to SGMA were signed into law in 2015, including Senate Bills 13 and 226, and Assembly Bills 617 and 939, which were codified in part in California *Water Code* Section 10723.6(a), authorizing a combination of local agencies to form a GSA pursuant to a joint powers agreement, a memorandum of agreement, or other legal agreement; and, California *Water Code* Section 10723.6(b), authorizing water corporations regulated by the California Public Utilities Commission and mutual water companies to participate in a GSA through a memorandum of agreement or other legal agreement; and

WHEREAS, the legislative intent and effect of SGMA, as set forth in California *Water Code* Section 10720.1, includes the following: (1) to provide for the sustainable management of groundwater basins; (2) to enhance local management of groundwater consistent with rights to use or store groundwater and Section 2 of Article X of the California Constitution, and to preserve the security of water rights in the state to the greatest extent possible consistent with the sustainable management of groundwater; (3) to establish minimum standards for sustainable groundwater management; (4) to provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater; (5) to avoid or minimize subsidence; (6) to improve data collection and understanding about groundwater; (7) to increase groundwater storage and remove impediments to recharge; (8) to manage groundwater basins through the actions of local governmental agencies to the greatest extent feasible, while minimizing state intervention to only when necessary to ensure that local agencies manage groundwater in a sustainable manner; and (9) to provide a more efficient and cost-effective groundwater adjudication process that protects water rights, ensures due process, prevents unnecessary delay, and furthers the objectives of SGMA; and,

WHEREAS, SGMA affords GSAs specific powers to manage groundwater in addition to existing legal authorities, which powers may be used to provide the maximum degree of local control and flexibility consistent with the sustainability goals of SGMA; and,

WHEREAS, SGMA includes several un-codified findings by the California Legislature, including the determination that the people of the state have a primary interest in the protection, management, and reasonable beneficial use of the water resources of the state, both surface and underground, and that the integrated management of the state's water resources is essential to meeting its water management goals; and,

WHEREAS, the Basin, as depicted in **Exhibit A** to this MOA, is identified by the California Department of Water Resources Bulletin 118 as **Sub-basin No. 8-02.07 of the Upper Santa Ana Valley Groundwater Basin**, and is designated by DWR as medium-priority; and,

WHEREAS, California *Water Code* Section 10720.7 requires the Basin, as a medium-priority basin that is not designated by DWR as being subject to critical conditions of overdraft, to be managed by a **Groundwater Sustainability Plan ("GSP") or coordinated GSPs by January 31, 2022**; and,

WHEREAS, in order to avoid designation as a probationary basin and become subject to direct intervention and management by the State Water Board, California *Water Code* Section 10735.2 requires that, by June 30, 2017 a collection of local agencies must form a GSA or prepare agreements to develop one or more GSPs that will collectively serve as a GSP for the entire Basin, in the event that a local agency has not decided to become a GSA that intends to develop a GSP for the entire Basin; and,

WHEREAS, the LOCAL AGENCIES have water supply, water management, and/or land use responsibilities for their respective jurisdictional areas overlying the Basin and are local agencies as defined by SGMA in California *Water Code* Section 10721(n), and thus each is authorized by SGMA to become or form a GSA; and,

WHEREAS, the LOCAL AGENCIES' individually have jurisdictional and/or service areas within and their collective jurisdictional areas and/or service areas cover the entirety of the Basin, with no gaps in coverage; and,

WHEREAS, the WATER PURVEYORS, including the MUTUALS, produce groundwater and provide water service within the Basin, and it is the Parties' shared intent to provide for management-level participation by the MUTUALS in the GSA to the maximum extent allowed by law without limiting any powers afforded to a GSA under SGMA; and,

WHEREAS, the REGIONALS are State Water Contractors, and have the rights and duties of such, including for the delivery of State Water Project Water within the Basin; and,

WHEREAS, in accordance with the terms of this MOA, and in furtherance of the shared intent of the Parties to maximize funding opportunities for the Basin and avoid potential intervention in the Basin by the State Water Board, the Parties agree that the YUCAIPA-GSA formed by this MOA will cover the entire Basin; and,

WHEREAS, the Parties mutually desire and intend to work with local stakeholders and interested parties in the Basin that are not Parties to this MOA, to carry out the policy, purposes, and requirements of SGMA in the Basin.

Agreement

NOW, THEREFORE, in consideration of the promises, terms, conditions, and covenants contained herein, it is mutually understood and agreed as follows:

- I. **Incorporation of Recitals.** The Recitals stated above are incorporated herein by reference.
- II. **Purposes.** The purposes of this MOA is to form the YUCAIPA-GSA for the Basin as specified herein pursuant to applicable provisions and requirements of SGMA, including but not limited to California *Water Code* Sections 10723 and 10723.6.
- III. **Approval of MOA and Formation of the YUCAIPA-GSA.** Approval of this MOA and formation of the YUCAIPA-GSA shall be accomplished by the LOCAL AGENCIES each holding its own noticed public hearing pursuant to California *Water Code* Section 10723(b) and California *Government Code* Section 6066 and at such hearing will consider approval of a Resolution by its governing board to enter this MOA and jointly form the YUCAIPA-GSA as specified in this MOA. Approval of this MOA by the MUTUALS shall be accomplished through their respective governing boards' duly authorized procedures.
- IV. **Definitions.** The following terms, whether used in the singular or plural, and when used with initial capitalization, shall have the meanings specified herein. The Parties agree that any definitions set forth herein are intended to be consistent with SGMA, and in the event of any discrepancy between a defined term in this MOA and a defined term in SGMA, the terms of SGMA shall control.
 - A. "Basin" refers to the Yucaipa Sub-basin, designated by the California Department of Water Resources Bulletin 118 as Sub-basin No. 8-02.07, as depicted in **Exhibit A** to this MOA.
 - B. "DWR" means the California Department of Water Resources.

- C. "GSA" means a Groundwater Sustainability Agency, as defined by SGMA.
- D. "GSP" means a Groundwater Sustainability Plan, as defined by SGMA.
- E. "Memorandum of Agreement" or "MOA" refers to this Memorandum of Agreement.
- F. "SGMA" refers to the Sustainable Groundwater Management Act, of 2014, as amended.
- G. "State Water Board" means the California State Water Resources Control Board.
- H. "YUCAIPA-GSA" refers to the Yucaipa Sub-basin GSA formed under this MOA.

V. Coordination and Cooperation

- A. Continued Cooperation. The Parties to this MOA will continue to meet, confer, coordinate, and collaborate to discuss and develop technical, managerial, financial, and other criteria and procedures for the preparation, **governance**, and implementation of a GSP or coordinated GSPs in the Basin and to carry out the policy, purposes, and requirements of SGMA in the Basin.
- B. Points of Contact. Each Party shall designate a **principal contact person** for that Party, who may be changed from time to time at the sole discretion of the designating Party. The principal contact person for each Party shall be responsible for coordinating with the principal contact persons for the other Parties in scheduling meetings and other activities under this MOA.
- C. Voting Methodology. The voting structure for matters pertaining to the establishment and implementation of the administrative components of the YUCAIPA-GSA shall be by **simple majority (51%)** of the voting Parties, wherein each WATER PURVEYOR, MUNICIPALITY and REGIONAL holds a single vote.

VI. Roles and Responsibilities

- A. The YUCAIPA-GSA shall be controlled by a **Governing Board** comprised of **one representative of each of the Parties to this MOA**.
- B. The Parties agree to jointly establish their specific roles and responsibilities for implementing this MOA, including through the adoption of **organizational documents, management policies, rules and procedures**.
- C. The Parties **agree to jointly develop and implement a GSP or coordinated GSPs** for the Basin in accordance with SGMA.
- D. The Parties agree to work in good faith and coordinate all activities to carry out the purposes of this MOA in implementing the policy, purposes, and requirements of SGMA in the Basin, including continuing to meet, confer, coordinate, and collaborate to discuss and develop governance, management, technical, financial, and other matters, including respective roles and responsibilities for activities such as, but not limited to, the following: modeling;

metering; monitoring; hiring consultants; developing and maintaining list of interested persons under California *Water Code* Section 10723.4; budgeting; and other initial tasks as determined by the Parties.

- E. The LOCAL AGENCIES shall coordinate with each other to cause all applicable noticing and submission of required information to DWR regarding formation of the YUCAIPA-GSA.

VII. Funding and Budgeting. The Parties shall work together to identify the costs, funding needs and funding sources for the administration of the YUCAIPA-GSA and the development and implementation of the GSP. To the extent not otherwise funded in accordance with or inconsistent with SGMA's provisions regarding GSA funding, the **PURVEYORS shall collectively bear seventy-five percent (75%)** and the **MUNICIPALITIES and REGIONALS shall collectively bear twenty-five percent (25%)** of the cost of the creation and administration of the YUCAIPA-GSA; and **within each group, the Parties shall equally share** in the costs of the creation and administration of the YUCAIPA-GSA. Nothing in this provision shall obligate any party to bear any portion of the attorneys' fees and legal costs of another Party.

VIII. Stakeholders. The initially designated stakeholders are the COUNTIES. The Parties agree to work together in ensuring public outreach and involvement of the public and other interested stakeholders throughout the SGMA process, including but not limited to all beneficial uses and users of groundwater as provided in SGMA Section 10723.2. Stakeholders have no voting rights under Section V.C. and no cost sharing obligations under Section VII of this MOA.

IX. Term, Termination, and Withdrawal.

- A. Term. This MOA shall continue and remain in effect unless and until terminated by the unanimous written consent of the Parties, or as otherwise provided in this MOA or as authorized by law.
- B. Withdrawal. After the YUCAIPA-GSA is officially established as the GSA for the Basin, any Party may decide, in its sole discretion, to withdraw from this MOA by providing ninety (90) days written notice to the other Parties. A Party that withdraws from this MOA shall remain obligated to pay its share of costs and expenses incurred or accrued under this MOA and any related cost-sharing agreement or arrangement up to the date the Party provides its notice of withdrawal as provided herein. Withdrawal by a Party shall not cause or require the termination of this MOA or the existence of the YUCAIPA-GSA with respect to the non-withdrawing Parties. In the event of withdrawal by one of the LOCAL AGENCIES, the Parties shall meet and confer during the 90-day notice period regarding: (i) whether the withdrawing Party wishes to seek GSA status for a portion of the Basin underlying the jurisdictional area or service area of the withdrawing Party; (ii) whether, as a result of the withdrawal, a co-GSA management or other arrangement with the withdrawing Party is necessary to satisfy the requirements of SGMA; and (iii) any other issues and steps that are necessary to avoid triggering probationary status of the Basin and State Water Board intervention. Any resolution of issues pertaining to withdrawal and any

other GSA issues shall be undertaken in a manner that satisfies all requirements of SGMA and DWR, including any requirement to file new GSA notices.

X. Notice Provisions

All notices required by this MOA shall be made in writing and delivered to the respective representatives of the Parties at their respective addresses as follows:

PARTIES:

PURVEYORS:

South Mesa Water Company

391 West Avenue L
Calimesa, California 92320
Attn: Dave Armstrong, General Manager
Email: smwc@verizon.net

South Mountain Water Company

35 Cajon Street
Redlands, California 92373
Attn: Cecilia Griego, Water Resources Specialist
Email: cgriego@cityofredlands.org

Western Heights Water Company

32352 Avenue D
Yucaipa, California 92399
Attn: William Brown, General Manager
Email: w.brown@westernheightswater.org

Yucaipa Valley Water District

12770 Second Street
Yucaipa, California 92399
Attn: Joseph, Zoba, General Manager
Email: jzoba@yvwd.dst.ca.us

MUNICIPALS:

City of Calimesa

908 Park Avenue
Calimesa, California 92399
Attn: Bonnie Johnson, City Manager
Email: bjohnson@cityofcalimesa.net

City of Redlands

35 Cajon Street
Redlands, California 92373
Attn: Chris Diggs, Municipal Utilities and Engineering Director
Email: cdiggs@cityofredlands.org

City of Yucaipa
34272 Yucaipa Boulevard
Yucaipa, California 92399
Attn: Ray Casey, City Manager
Email: rcasey@yucaipa.org

REGIONALS:

San Bernardino Valley Municipal Water District
380 E. Vanderbilt Way
San Bernardino, CA 92408
Attn: Douglas Headrick, General Manager & Chief Engineer
Email: douglash@sbrvmwd.com

San Gorgonio Pass Water Agency
1210 Beaumont Avenue
Beaumont, CA 92223
Attn: Jeff Davis, General Manager and Chief Engineer
Email: jdavis@sgpwa.com

STAKEHOLDERS:

COUNTIES:

County of Riverside
4080 Lemon Street
Riverside, CA 92501
Attn: Steve Horn, Senior Management Analyst, Executive Office
Email: shorn@rceo.org

County of San Bernardino
385 N. Arrowhead Avenue
San Bernardino, CA 92415-0120
Attn: Bob Page, Principal Management Analyst, Special Projects
Email: bpage@sbccounty.gov

Any Party or Stakeholder may change the address to which notices are to be given under this MOA by providing all other Parties with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change. All notices shall be effective upon receipt and shall be deemed received upon confirmed personal service, confirmed facsimile delivery, confirmed courier service, or on the fifth (5th) calendar day following deposit of the notice in registered first class mail.

XI. General Terms

- A. Amendments. Amendments to this MOA require the unanimous written consent of all Parties and approval by the Parties' respective governing boards.
- B. Successors and Assigns. The terms of this MOA shall be binding upon and inure to the benefit of the successors-in-interest and assigns of each Party; provided, however, that no transfer or assignment shall be effective until approved by the

Parties in accordance with the provisions of Section V.C. of this MOA. Once succession and/or assignment has been approved, a former Party shall have no further rights or obligations under this MOA.

- C. Waiver. No waiver of any provision of this MOA by any Party shall be construed as a further or continuing waiver of such provision or any other provision of this MOA by the waiving Party or any other Party.
- D. Authorized Representatives. Each person executing this MOA on behalf of a Party hereto affirmatively represents that such person has the requisite authority to sign this MOA on behalf of the respective Party.
- E. Exemption from CEQA. The Parties recognize and agree that, pursuant to SGMA Section 10728.6, neither this MOA nor the preparation or adoption of a GSP constitute a "project" or approval of a project under the California Environmental Quality Act (CEQA) or the State CEQA Guidelines, and therefore this MOA is expressly exempt from CEQA review.
- F. Governing Law and Venue. This MOA shall be governed by and construed in accordance with the laws of the State of California. Any suit, action, or proceeding brought under the scope of this MOA shall be brought and maintained to the extent allowed by law in the County of San Bernardino, California.
- G. Attorney's Fees, Costs, and Expenses. In the event of a dispute among any or all of the Parties arising under this MOA, each Party shall assume and be responsible for its own attorney's fees, costs, and expenses.
- H. Entire Agreement/Integration. This MOA constitutes the entire agreement among the Parties regarding the specific provisions of this MOA, and the Parties hereto have made no agreements, representations or warranties relating to the specific provisions of this MOA that are not set forth herein.
- I. Construction and Interpretation. The Parties agree and acknowledge that this MOA has been developed through a negotiated process among the Parties, and that each Party has had a full and fair opportunity to review the terms of this MOA with the advice of its own legal counsel and to revise the terms of this MOA, such that each Party constitutes a drafting Party to this MOA. Consequently, the Parties understand and agree that no rule of construction shall be applied to resolve any ambiguities against any particular Party as the drafting Party in construing or interpreting this MOA.
- J. Force Majeure. No Party shall be liable for the consequences of any unforeseeable force majeure event that (1) is beyond its reasonable control, (2) is not caused by the fault or negligence of such Party, (3) causes such Party to be unable to perform its obligations under this MOA, and (4) cannot be overcome by the exercise of due diligence. In the event of the occurrence of a force majeure event, the Party unable to perform shall promptly notify the other Parties in writing to the extent practicable. It shall further pursue its best efforts to resume its obligations under this MOA as quickly as possible and shall suspend performance only for such period of time as is necessary as a result of the force majeure event.

- K. Execution in Counterparts. This MOA may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.
- L. No Third Party Beneficiaries. This MOA is not intended, and will not be construed, to confer a benefit or create any right on a third party or the power or right of any third party to bring an action to enforce any of the terms of this MOA.
- M. Timing and Captions. Any provision of this MOA referencing a time, number of days, or period for performance shall be measured in calendar days. The captions of the various articles, sections, and paragraphs of this MOA are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, terms, or intent of this MOA.

IN WITNESS WHEREOF, the Parties hereto have approved and executed this MOA as of the respective dates specified in the adopting Resolution of each Party as provided above in Article III of this MOA.

[Signature Pages Follow]

COUNTY OF RIVERSIDE
EXECUTIVE OFFICE



GEORGE A. JOHNSON
COUNTY EXECUTIVE OFFICER

ROB FIELD
ASSISTANT COUNTY EXECUTIVE OFFICER
ECONOMIC DEVELOPMENT AGENCY
MICHAEL T. STOCK
ASSISTANT COUNTY EXECUTIVE OFFICER
HUMAN RESOURCES
ZAREH SARRAFIAN
ASSISTANT COUNTY EXECUTIVE OFFICER
HEALTH SYSTEMS
PAUL McDONNELL
ASSISTANT COUNTY EXECUTIVE OFFICER
COUNTY FINANCE DIRECTOR

June 22, 2017

Mr. Douglas Headrick
General Manager and Chief Engineer
San Bernardino Valley Municipal Water
District 380 E. Vanderbilt Way
San Bernardino, CA 92408

re: Support for Yucaipa Sub-Basin GSA

Mr. Headrick:

The County of Riverside appreciates the commitment of the cities of Calimesa, Redlands and Yucaipa; San Bernardino Valley Municipal Water District; San Gorgonio Pass Water Agency; Yucaipa Valley Water District; South Mesa Water Company; South Mountain Water Company; and Western Heights Water Company to maintain local control of the Yucaipa Sub-Basin and to work together through a Memorandum of Agreement to sustainably manage the basin's groundwater resources in a way that considers the interests of all beneficial uses and users.

As the County is also eligible to serve as the Groundwater Sustainability Agency for the Yucaipa Sub-Basin, the County wishes to assure you that it does not intend to adopt a competing Groundwater Sustainability Agency formation resolution and notification of the California Department of Water Resources.

If you should have any questions, please contact me at 951-955-1110 or by email at agann@rivco.org.

Sincerely,

Alex Gann
Deputy County Executive Officer

ec: Steve Van Stockum, Director, Riverside County Department of Environmental Health
Jeff Johnson, Deputy Director, Riverside County Department of Environmental Health
Jason Uhley, General Manager-Chief Engineer, Riverside County Flood Control
And Water Conservation District



Board of Supervisors

May 23, 2017

Mr. Douglas Headrick
General Manager and Chief Engineer
San Bernardino Valley Municipal Water District
380 E. Vanderbilt Way
San Bernardino, CA 92408

Re: Support for Yucaipa Sub-Basin Groundwater Sustainability Agency

Mr. Headrick:

On May 23, 2017, the County of San Bernardino Board of Supervisors voted to communicate the County's support of the cooperative efforts of the Yucaipa Sub-Basin Groundwater Sustainability Agency to manage groundwater in the Yucaipa Sub-Basin (No. 8-2.07) in compliance with the California Sustainable Groundwater Management Act.

The County appreciates the commitment of the cities of Calimesa, Redlands and Yucaipa; San Bernardino Valley Municipal Water District; San Geronio Pass Water Agency; Yucaipa Valley Water District; South Mesa Water Company; South Mountain Water Company; and Western Heights Water Company to maintain local control of the Yucaipa Sub-Basin and to work together through a Memorandum of Agreement to sustainably manage the basin's groundwater resources in a way that considers the interests of all beneficial uses and users.

As the County is also eligible to serve as the Groundwater Sustainability Agency for the Yucaipa Sub-Basin, the County wishes to assure you that the County does not intend to adopt a competing Groundwater Sustainability Agency formation resolution and notification of the California Department of Water Resources. To that end, on March 7, 2017, the Board of Supervisors adopted a resolution that the County would not be the Groundwater Sustainability Agency for 11 groundwater basins and sub-basins in the county, including Yucaipa Sub-Basin. A copy of this resolution is attached.

If you should have any questions, please contact Bob Page, Principal Management Analyst, at (909) 387-4384 or by email at bpage@cao.sbcounty.gov. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Robert A. Lovingood".

Robert A. Lovingood
Chairman and First District Supervisor
Board of Supervisors
County of San Bernardino

BOARD OF SUPERVISORS

ROBERT A. LOVINGOOD
Chairman, First District

JANICE RUTHERFORD
Second District

JAMES RAMOS
Third District

CURT HAGMAN
Vice Chairman, Fourth District

JOSIE GONZALES
Fifth District

DENA M. SMITH
Interim Chief Executive Officer

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

May 23, 2017

**FROM: DENA M. SMITH, Interim Chief Executive Officer
County Administrative Office**

**SUBJECT: SUPPORT FOR BEAR VALLEY BASIN AND YUCAIPA BASIN
GROUNDWATER SUSTAINABILITY AGENCIES**

RECOMMENDATION(S)

1. Approve and authorize submission of letters of support for the cooperative efforts of cities, water districts and water companies to manage groundwater in compliance with the California Sustainable Groundwater Management Act in the following groundwater basins:
 - a. Bear Valley Basin (No. 8-9)
 - b. Yucaipa Sub-Basin (No. 8-2.07)
2. Authorize the Chairman of the Board of Supervisors or the Chief Executive Officer to execute similar letters of support, subject to review by County Counsel, for local agency efforts to manage other groundwater basins in San Bernardino County that must comply with the California Sustainable Groundwater Management Act for which the County has previously notified the California Department of Water Resources that the County will not serve as the Groundwater Sustainability Agency.

(Presenter: Bob Page, Principal Management Analyst, 387-5425)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS AND OBJECTIVES

**Ensure Development of a Well-Planned, Balanced, and Sustainable County.
Pursue County Goals and Objectives by Working with Other Agencies.**

FINANCIAL IMPACT

Providing letters of support to local agencies forming Groundwater Sustainability Agencies (GSAs) will not result in the use of additional Discretionary General Funding (Net County Cost).

BACKGROUND INFORMATION

Effective January 1, 2015, the California Sustainable Groundwater Management Act (SGMA) requires local water and land use agencies to sustainably manage 127 groundwater basins and sub-basins (basins) that have been designated by the California Department of Water Resources (DWR) as medium or high priority. SGMA mandates that one eligible local agency or multiple eligible local agencies form a GSA for each of these basins by June 30, 2017 with the responsibility of developing and implementing a Groundwater Sustainability Plan (GSP).

Page 1 of 3

cc: CAO-Smith
CAO-Page w/Letters of Support
CAO-Shea
File - Administrative Office w/copy
of Letters
jr 5/24/17

ITEM 55

Record of Action of the Board of Supervisors

APPROVED (CONSENT CALENDAR)
COUNTY OF SAN BERNARDINO
Board of Supervisors

MOTION	<u>AYE</u>	<u>AYE</u>	<u>SECONDED</u>	<u>MOVE</u>	<u>AYE</u>
	1	2	3	4	5

LAURA H. WELCH, CLERK OF THE BOARD

BY _____

DATED: May 23, 2017

**SUPPORT FOR BEAR VALLEY BASIN AND YUCAIPA BASIN
GROUNDWATER SUSTAINABILITY AGENCIES
MAY 23, 2017
PAGE 2 OF 3**

DWR has designated Bear Valley Basin as medium priority. DWR has also defined the boundaries of the Bear Valley Basin in its Bulletin 118 and assigned it No. 8-9. The City of Big Bear Lake, the Big Bear City Community Services District and the Big Bear Municipal Water District have formed the Bear Valley Basin Groundwater Sustainability Agency (Bear Valley Basin GSA), a joint powers authority that became effective on April 26, 2017, with the purpose to become the exclusive GSA for the Bear Valley Basin.

DWR has designated Yucaipa Sub-Basin as medium priority. DWR has also defined the boundaries of the Yucaipa Sub-Basin in its Bulletin 118 and assigned it No. 8-2.07. Negotiations of a Memorandum of Agreement (MOA) regarding the formation of a GSA for the Yucaipa Sub-Basin completed in April. The MOA was circulated for approval by June from the governing bodies of the following parties to the MOA: the cities of Calimesa, Redlands and Yucaipa; San Bernardino Valley Municipal Water District; San Geronio Pass Water Agency; Yucaipa Valley Water District; South Mesa Water Company; South Mountain Water Company; and Western Heights Water Company.

Before either GSA can be the exclusive GSA for their respective basin, SGMA requires that they hold a noticed public hearing to adopt a resolution to become the exclusive GSA. The Bear Valley Basin GSA hearing is scheduled for May 25, 2017. The parties to Yucaipa Sub-Basin GSA MOA will hold separate public hearings on various dates before June 30, 2017. The GSAs will then have 30 days to notify DWR of their decisions, providing among other things a map of the service areas of the parties within each basin (attached) and a list of all beneficial uses and users of the groundwater and how their interests will be considered in the operation of the GSAs and the development and implementation of their GSPs.

DWR will post the notices on its SGMA Portal on its website (sgma.water.ca.gov/portal/#intro). Other eligible local agencies in each basin, including the County, will then have 90 days to file a competing GSA notice. If no competing notices are filed with DWR, the Bear Valley Basin GSA and Yucaipa Sub-Basin GSA will become the exclusive GSAs for their basins. On March 7, 2017 (Item No. 20), the Board of Supervisors (Board) adopted a resolution that the County would not be the GSA for 11 groundwater basins and sub-basins in the county, including Bear Valley Basin and Yucaipa Sub-Basin. The Board adopted a similar resolution covering five other basins on January 10, 2017 (Item No. 21).

The parties to these GSAs requested that the County support their efforts. If approved by the Board, the recommended letters will be provided to the Bear Valley Basin GSA and Yucaipa Sub-Basin GSA.

If local agencies in any of the other 14 basins covered by the Board's January 10 and March 7 resolutions request support of their GSA, approval of Recommendation No. 2 will authorize the Chairman of the Board or the Chief Executive Officer to execute similar letters of support, subject to review by County Counsel.

**SUPPORT FOR BEAR VALLEY BASIN AND YUCAIPA BASIN
GROUNDWATER SUSTAINABILITY AGENCIES
MAY 23, 2017
PAGE 3 OF 3**

PROCUREMENT

N/A.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Sophie A. Akins, Deputy County Counsel, 387-5001) on May 5, 2017; Finance (Stephenie Shea, Administrative Analyst, 387-4919) on May 8, 2017; and County Finance and Administration (Katrina Turturro, Deputy Executive Officer, 387-5423) on May 8, 2017.

Exhibit A

RESOLUTION NO. 2017-18

COPY

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUCAIPA, CALIFORNIA, APPROVING THE MEMORANDUM OF AGREEMENT TO FORM A GROUNDWATER SUSTAINABILITY AGENCY FOR THE YUCAIPA SUB-BASIN WITH THE CITIES OF CALIMESA AND REDLANDS; THE SOUTH MESA WATER COMPANY; THE SOUTH MOUNTAIN WATER COMPANY; THE WESTERN HEIGHTS WATER COMPANY; THE YUCAIPA VALLEY WATER DISTRICT; THE SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT; AND THE SAN GORGONIO PASS WATER AGENCY

WHEREAS, on September 16, 2014, Governor Jerry Brown signed into law Senate Bills 1168 and 1319, and Assembly Bill 1739, collectively known as the Sustainable Groundwater Management Act ("SGMA"), codified in certain provisions of the California Government Code, including commencing with Section 65350.5, and codified in Part 2.74 of Division 6 of the California Water Code, commencing with Section 10720, and amending other provisions of the California Government Code and California Water Code; and

WHEREAS, various clarifying amendments to SGMA were signed into law in 2015, including Senate Bills 13 and 226, and Assembly Bills 617 and 939, which were codified in part in California Water Code Section 10723.6(a), authorizing a combination of local agencies to form a Groundwater Sustainability Agency (GSA) pursuant to a joint powers agreement, a memorandum of agreement, or other legal agreement; and, California Water Code Section 10723.6(b), authorizing water corporations regulated by the California Public Utilities Commission and mutual water companies to participate in a GSA through a memorandum of agreement or other legal agreement; and

WHEREAS, the Yucaipa Sub-Basin (Basin) is identified by the California Department of Water Resources (DWR) Bulletin 118 as Sub-Basin No. 8-02.07 of the Upper Santa Ana Valley Groundwater Basin, and is designated by DWR as a medium priority basin; and

WHEREAS, California Water Code Section 10720.7 requires the Basin, as a medium priority basin that is not designated by DWR as being subject to critical conditions of overdraft, to be managed by Groundwater Sustainability Plan by January 31, 2022; and

WHEREAS, the Cities of Yucaipa, Calimesa and Redlands; the Yucaipa Valley Water District; the South Mountain Water Company; the San Bernardino Valley Municipal Water District; and the San Gorgonio Pass Water Agency have water supply, water management, and/or land use responsibilities for their respective jurisdictional areas overlying the Basin and are local agencies as defined by SGMA, and thus each is authorized by SGMA to become or form a GSA; and

WHEREAS, the South Mesa Water Company and the Western Heights Water Company produce groundwater and provide water service within the Basin, and it is the intent to provide for management-level participation by these Water Companies in the GSA

WHEREAS, the City held a public hearing on May 22, 2017, after publication of notice pursuant to Government Code Section 6066 to consider adoption of this Resolution; and

WHEREAS, adoption of this Resolution does not constitute a "Project" under the California Environmental Quality Act (CEQA) pursuant to 15060(c)(3) and 15378(b)(5) of the State CEQA Guidelines because it is an administrative action that does not result in any direct or indirect physical change in the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF YUCAIPA DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Adopt Resolution No. 2017-18 approving the Memorandum of Agreement to form a Groundwater Sustainability Agency for the Yucaipa sub-basin with the Cities of Calimesa and Redlands; the South Mesa Water Company; the South Mountain Water Company; the Western Heights Water Company; the Yucaipa Valley Water District; the San Bernardino Valley Municipal Water District; and the San Gorgonio Pass Water Agency.

PASSED, APPROVED, and ADOPTED this 22nd day of May, 2017.



DICK RIDDELL, MAYOR

ATTEST:



JENNIFER SHANKLAND, CITY CLERK

RESOLUTION 2017 - 09

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN GORGONIO PASS WATER AGENCY TO APPROVE THE MEMORANDUM OF AGREEMENT TO JOINTLY FORM THE YUCAIPA GROUNDWATER SUSTAINABILITY AGENCY FOR THE YUCAIPA SUBBASIN

WHEREAS, the Sustainable Groundwater Management Act of 2014 (SGMA) was signed into law on September 16, 2014, went into effect on January 1, 2015, and has been subject to various amendments; and

WHEREAS, SGMA provides for the sustainable management of groundwater basins at the local level through the formation of Groundwater Sustainability Agencies (GSAs) and through preparation and implementation of Groundwater Sustainability Plans (GSPs); and

WHEREAS, the Yucaipa Subbasin (Basin) is identified by the California Department of Water Resources (DWR) Bulletin 118 as Subbasin No. 8-02.07 of the Upper Santa Ana Valley Groundwater Basin, and is designated by DWR as medium priority, and therefore, except as provided by SGMA, the Basin is subject to the requirements of SGMA; and

WHEREAS, the San Gorgonio Pass Water Agency (Agency) is a special act agency of the State of California, organized and operating pursuant to the San Gorgonio Pass Water Agency Law, California Water Code Appendix, Chapter 101, and accordingly the Agency constitutes a local agency for all purposes under SGMA; and

WHEREAS, SGMA authorizes a combination of local agencies as defined by SGMA to form a GSA pursuant to a joint powers agreement, a memorandum of agreement, or other legal agreement, and SGMA also authorizes a water corporation regulated by the California Public Utilities Commission or a mutual water company to participate in a GSA through a memorandum of agreement or other legal agreement; and

WHEREAS, in accordance with SGMA, the Agency, South Mesa Water Company (South Mesa), South Mountain Water Company (South Mountain), Western Heights Water Company (Western Heights), Yucaipa Valley Water District (YVWD), City of Calimesa (Calimesa), City of Redlands (Redlands), City of Yucaipa (Yucaipa), and San Bernardino Valley Municipal Water District (San Bernardino Valley Municipal) have prepared a Memorandum of Agreement (MOA), attached hereto as **Exhibit A**, to jointly form a GSA that is referred to in the MOA as the Yucaipa-GSA to cover the entire Basin, the members of which Yucaipa-GSA are the Agency, South Mesa, South Mountain, Western Heights, YVWD, Calimesa, Redlands, Yucaipa, and San Bernardino Valley Municipal; and

WHEREAS, the Agency is committed to the sustainable management of groundwater resources within the Basin in accordance with SGMA; and

WHEREAS, pursuant to the requirements of SGMA, the Agency held a public hearing on this date after publications of notice pursuant to California Government Code Section 6066 to consider adoption of this Resolution; and

WHEREAS, pursuant to SGMA Section 10728.6 and Public Resources Code Section 21065, neither this Resolution, nor the MOA, nor the preparation or adoption of a GSP constitutes a project or approval of a project under the California Environmental Quality Act (CEQA) or the State CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN GORGONIO PASS WATER AGENCY THAT:

1. The San Gorgonio Pass Water Agency hereby approves the Memorandum of Agreement to Jointly Form the Yucaipa Groundwater Sustainability Agency for the Yucaipa Subbasin (MOA), a copy of which is attached hereto as **Exhibit A**.
2. Pursuant to the MOA and as authorized by SGMA, the San Gorgonio Pass Water Agency elects to jointly form and participate as a member of the Yucaipa Groundwater Sustainability Agency (Yucaipa-GSA) for the entire Basin as further set forth and depicted in the MOA.
3. The General Manager of the San Gorgonio Pass Water Agency is hereby authorized and directed to coordinate with other members of the Yucaipa-GSA to submit a copy of this Resolution and other applicable information to the California Department of Water Resources regarding the formation of the Yucaipa-GSA.

I HEREBY CERTIFY that the foregoing is a true, full and correct copy of Resolution 2017-09 that was duly introduced, passed and adopted at a regular meeting of the Board of Directors of the San Gorgonio Pass Water Agency, at its regular meeting on June 5, 2017.



David L. Fenn, Board President
San Gorgonio Pass Water Agency

ATTEST:



Jeffrey Davis, Secretary