

**ASSESSMENT ADVANCE AGREEMENT BETWEEN
THE COUNTY OF KERN AND THE INDIAN WELLS
VALLEY GROUNDWATER AUTHORITY**

This Advanced Fees Agreement (the "Agreement") is entered into as of June 26, 2018 ("Effective Date"), between the County of Kern ("County") and the Indian Wells Valley Groundwater Authority, a Joint Powers Authority created pursuant to the provisions of California Government Code sections 6500 et seq., ("Authority"). County and Authority are sometimes hereinafter individually or collectively called a "Party" or the "Parties".

RECITALS

WHEREAS, the Authority was formed after enactment of the "Sustainable Groundwater Management Act" ("SGMA") for the purpose achieving groundwater sustainability through the adoption and implementation of a Groundwater Sustainability Plans ("GSP") for the Indian Wells Valley basin.

WHEREAS, the County is a General Member of the Authority.

WHEREAS, the Authority was initially funded with General Member contributions of Fifteen Thousand Dollars (15,000.00) each.

WHEREAS, the Authority is authorized to levy assessments against the General Members of the Authority pursuant to Article IX of the Joint Exercise of Powers Agreement and the County is in the unique position of having police powers over the majority of non-federal lands within the Basin that currently extract groundwater from the Basin.

WHEREAS, the Authority is authorized to levy assessments, charges and fees as provided in SGMA, including permit fees and groundwater extraction fees pursuant to California Water Code section 10730 to fund the costs, including preparation and adoption, of a GSP.

WHEREAS, the Authority is currently in the process of imposing a groundwater extraction fees pursuant to California Water Code section 10730 to fund the Authority costs, including preparation and adoption, of a GSP.

WHEREAS, the Authority is in need of additional funds to continue preparation of the GSP.

WHEREAS, given the County's unique position, the County has agreed to advance funds to the Authority in lieu of the Authority imposing any additional assessments on its General Members for the purpose of filing the funding gap that has been created by the delay in imposing a groundwater extraction fee.

NOW THEREFORE, in consideration of the foregoing Recitals, which are incorporated

herein by this reference, and of the covenants and agreements herein contained, the Parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to provide the Authority with the initial funding capital to close the funding gap created by the delay in imposing a groundwater extraction fee, while simultaneously providing provisions that will ensure that the County's contributions are refunded to the County as the Authority becomes self-sufficient.

2. Payment. County agrees to advance to the Authority up to Five Hundred Thousand Dollars (\$500,000.00) to fund preparation of the GSP and related Authority business. County agrees to immediately deposit with the Authority a sum of \$500,000 (Initial Deposit).

3. Reimbursement and/or Credit. The Authority hereby agrees that all monies paid by the County pursuant to this Agreement shall be subject to the following:

- (a) All money paid by the County pursuant to this Agreement shall have a first priority to reimbursement from other Authority funding sources, including Proposition 1 Grant funds, to the extent permitted by law.
- (b) The County shall receive credit for any money not reimbursed to the County pursuant to Section 2(a) herein, which shall be deducted from any future assessments, charges and/or fees imposed by the Authority on the County to fund the costs of the GSP and/or the costs of groundwater management pursuant to SGMA and/or the GSP.
- (c) The Parties reserve the right to mutually agree upon different terms subject to the written approval of the Parties.

4. Further County Payments. The Authority hereby agrees that it shall be an Authority priority to reimburse the County pursuant to Section 3 of this Agreement and this Agreement does not place an obligation on the County to pay any additional funds to the Authority.

5. Accounting. The Parties agree to each maintain separate and distinct accounting of any funds advanced by County pursuant to this Agreement. The Parties shall meet and confer on a monthly basis to compare and reconcile any discrepancies the Parties may have with respect to the accounting of County funds advanced pursuant to this Agreement.

6. Dispute Resolution. In the event there are disputes and/or controversies relating to the interpretation, construction, performance, termination or breach of this Agreement, the Parties shall in good faith meet and confer in an attempt to informally resolve such matter(s). If the Parties are unsuccessful in resolving such matter(s) through an informal meeting process, they may attempt to resolve such matter(s) through mediation, through arbitration under the rules and regulations of the American Arbitration Association or they may exercise whatever other legal rights and remedies they may have.

7. Indemnity. The Authority hereby agrees and undertakes to indemnify, defend and hold harmless the County, its officers, agents, volunteers and employees from any and all losses, costs, expenses (including reasonable attorneys' fees), claims, liabilities, actions or damages of any nature whatsoever, in any way arising out of or connected with or incident to or alleged to have arisen in any manner out of the County's performance of this Agreement or to have occurred as a result of any acts or omissions by the County, its officers, agents, volunteers and employees in the performance of this Agreement. Nothing herein shall alleviate the County from its obligations as a member of the Authority.

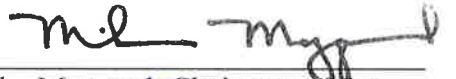
8. Termination. Either Party retains the right to terminate this Agreement, at its sole discretion, upon thirty (30) days written notice. Upon such termination, the Parties agree that any County funds advanced pursuant to this Agreement and/or further County payments shall be subject to the terms and provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

**INDIAN WELLS VALLEY
GROUNDWATER AUTHORITY**

By: 
Peggy Breeden, President
Board of Directors

COUNTY OF KERN

By: 
Mike Maggard, Chairman of the
Board of Supervisors JUN 26 2018

By: 
Ryan J. Alsop, County Administrative
Officer

Approved as to Form

By: 
Phillip W. Hall,
Deputy County Counsel