

RESOLUTION NO. 2019-88

APPROVING A COORDINATION AGREEMENT BETWEEN THE MARINA GROUNDWATER SUSTAINABILITY AGENCY AND THE SALINAS VALLEY BASIN GROUNDWATER SUSTAINABILITY AGENCY FOR THE PREPARATION OF GROUNDWATER SUSTAINABILITY PLANS IN ACCORDANCE WITH THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT, AND; AUTHORIZING CITY MANAGER TO EXECUTE THE PUBLIC IMPROVEMENT AGREEMENT ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

WHEREAS, the Sustainable Groundwater Management Act of 2014, Water Code Sections 10720 – 10736.6 (“SGMA”) was signed into law on September 16, 2014; and

WHEREAS, on March 20th, 2018, the City Council of the City of Marina held a public hearing and passed Resolution 2018-25 forming the Marina Groundwater Sustainability Agency (MGSA) to undertake sustainable groundwater management within the portion of the Salinas Valley Ground Water Basin 180/400 Foot Aquifer Subbasin within the City; and

WHEREAS, SGMA requires that each California groundwater subbasin be managed by a single Groundwater Sustainability Agency (“GSA”) or by a combination of GSAs and that such management be implemented pursuant to an approved Groundwater Sustainability Plan (GSP), or multiple coordinated GSP’s, as the case may be; and

WHEREAS, the MGSA is required to assess the conditions in its local subbasin and to adopt a locally-based SGMA-compliant GSP for the critically over drafted 180/400 Foot Aquifer Subbasin by January 31st, 2020;

WHEREAS, because the MGSA area overlaps the Salinas Valley Basing Groundwater Sustainability Agency (SVBGSA) area for the entire groundwater basin in which the MGSA is located, a coordination agreement between the two GSAs will be needed for the state to accept the GSPs prepared by the overlapping agencies; and

WHEREAS, Staff for the MGSA and SVBGSA have prepared the draft intra-basin coordination agreement (**Exhibit A**) pursuant to Water Code § 10727.6 and 23 C.C.R. § 357.4; and

WHEREAS, the coordination agreement, and close communication between staff and the City’s consultants, will help assure that the preparation and implementation of the two GSPs in the 180/400-Foot Aquifer Subbasin are effectively coordinated, subbasin sustainability goals are met, and the interests of all beneficial water users and uses are recognized and protected.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby:

1. Approve a coordination agreement between the Marina Groundwater Sustainability Agency (MGSA) and the Salinas Valley Basin Groundwater Sustainability Agency (SVBGSA) for the preparation of Groundwater Sustainability Plans (GSPs) in accordance with the Sustainable Groundwater Management Act (SGMA), and;
2. Authorizing the City Manager to execute the Agreement on behalf of the City subject to final review and approval by the City Attorney.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 20th day of August 2019, by the following vote:

AYES: COUNCIL MEMBERS: Berkley, Urrutia, O'Connell, Morton, Delgado

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk/Agency Secretary

COORDINATION AGREEMENT

THIS COORDINATION AGREEMENT (“Agreement”) is made effective as of August __, 2019, by and between the City of Marina Groundwater Sustainability Agency (“MGSA”) and the Salinas Valley Basin Groundwater Sustainability Agency (“SVBGSA”) (individually, “Party”; collectively, “Parties”).

RECITALS

A. On August 29, 2014, the California Legislature passed comprehensive groundwater legislation contained in Senate Bills 1168 and 1319 and Assembly Bill 1739. Collectively, those bills, as subsequently amended, enacted the Sustainable Groundwater Management Act (“SGMA”). SGMA became effective on January 1, 2015; and

B. SGMA requires all groundwater within basins/subbasins designated as high or medium priority by the California Department of Water Resources Agency (“DWR”) to be managed in a sustainable manner; and

C. Groundwater sustainability under SGMA is to be achieved through Groundwater Sustainability Plans (“GSPs”); and

D. Under SGMA, a GSP can be a single plan developed by one or more GSAs, or multiple coordinated plans within a basin/subbasin by multiple GSAs (California Water Code § 10727); and

E. For coordinated plans within a basin prepared by multiple GSAs, SGMA requires a coordination agreement among the GSAs to ensure that the plans utilize the same data and methodologies for the following assumptions in developing the plans: (a) Groundwater elevation data; (b) groundwater extraction data; (c) surface water supply; (d) total water use; (e) change in groundwater storage; (f) water budget; and (g) sustainable yield (California Water Code § 10727.6); and

F. SVBGSA filed a notice of intent with the DWR to be the groundwater sustainability agency (“GSA”) for the entire Salinas Valley Groundwater Basin within Monterey County (“Basin”), excepting therefrom the City of Greenfield’s jurisdictional area and Marina Coast Water District’s jurisdictional area, as depicted in the map attached hereto and incorporated herein as **Exhibit A**; and

G. MGSA filed a notice of intent with the DWR to serve as the exclusive GSA for those certain areas located in the 180/400 Foot Aquifer Subbasin of the Basin (DWR Basin Number 3-004.01) on and under land within its jurisdictional limits, but which lies outside the jurisdictional limits of the Marina County Water District (“MCWD”) GSA; and the MGSA boundaries include Monterey County Assessor Parcel Numbers (“APN”) 203-011-001; 203-011-019; 203-011-020, and portions of APN 203-011-023; 175-011-046; 175-011-031; and 203-011-011 (“MGSA GSP Area”), as depicted in the map attached hereto and incorporated herein as **Exhibit B**; and

H. The State Water Resources Control Board legal counsel has opined that, although a GSA's authority to undertake groundwater management is limited to the jurisdictional boundary of a local agency, the area for purposes of groundwater management can be modified through an agreement between GSAs, such as through a coordination agreement; and

I. The DWR recognizes that there is an overlap of jurisdictions in the 180/400 Foot Aquifer Subbasin of the Basin and has opined that the GSPs shall be rejected should both SVBGSA and MGSA submit a GSP for the overlapped area; and

J. To be consistent with SGMA and to avoid the possible rejection of the GSPs by the DWR, the Parties desire to enter into this Agreement to establish the areas to be covered by the separate GSPs prepared by SVBGSA and MGSA and provide for the required coordination of these GSPs.

NOW THEREFORE, in consideration of the facts recited above, the Parties agree to the following:

TERMS

SECTION 1 PURPOSE – Pursuant to the requirements of SGMA and its related regulations, including Section 357.4 of Title 23 of the California Code of Regulations ("CCR"), and in recognition of the need to sustainably manage the groundwater within the 180/400-Foot Aquifer Subbasin of the Basin ("Subbasin"), the Parties agree to work collaboratively to comply with SGMA's coordination agreement requirements and ensure that the multiple GSPs within the Subbasin are developed and implemented utilizing the same methodologies and assumptions between the multiple GSPs to address the requirements of the California Water Code for preparing coordinated groundwater elevation data, groundwater extraction data, surface water supply data, total water use, changes in groundwater storage, water budgets, and sustainable yield. The Parties intend that this Agreement be a description of how the multiple GSPs, developed by SVBGSA and MGSA, are prepared and implemented together to satisfy the requirements of SGMA.

SECTION 2 RESPONSIBILITIES OF THE PARTIES – The Parties to this Agreement agree to work collaboratively to comply with SGMA and this Agreement. To facilitate compliance with this Agreement, the Parties agree to meet on a monthly basis beginning in September 2019 to review the Parties' progress in implementing the Agreement. Each Party to this Agreement is a GSA and acknowledges it is bound by the terms of the Agreement.

SECTION 3 COORDINATION AGREEMENT POINT OF CONTACT – Consistent with 23 CCR 357.4(b)(1), the Parties shall identify a point of contact with the DWR prior to the time that they submit their GSPs to DWR.

SECTION 4 FINANCING – The Parties shall manage and fund their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purpose of this Agreement. SVBGSA or MGSA may enter into agreements or other arrangements regarding financing with each other or third parties as may be necessary or convenient to prepare and implement their respective GSPs.

SECTION 5 GSP DEVELOPMENT – The Parties intend that their coordinated GSPs will satisfy the requirements of SGMA. Additional formal or informal agreements may be entered into by the Parties for this purpose. Toward that end, the Parties hereby adopt the provisions below:

5.1 GSP Areas – The MGSA shall prepare and implement its GSP for the MGSA GSP Area of the Subbasin as more specifically set forth in **Exhibit B**. The SVBGSA shall prepare and implement its GSP for all Subbasin areas outside of the MGSA GSP Area (“SVBGSA GSP Area”), subject to any agreements it may have with other Groundwater Sustainability Agencies. MGSA is authorized to conduct additional data gathering, characterization and monitoring in the areas adjacent to the MSGA GSP Area as needed to implement its GSP and comply with SGMA’s requirements.

5.2 Data Management and Exchange – The Parties agree to develop and maintain coordinated data management system(s) that meet the requirements of California Code of Regulations (CCR) Title 23, Section 352.6, such as a single DMS or separate DMSs with coordinated schema to facilitate data sharing.

5.2.1 Collection of Data – Each Party shall be responsible for the collection of information to support GSP preparation and implementation within its respective plan preparation area, including but not limited to data to support groundwater conditions assessment, hydrogeologic conceptual model development, numerical model development, water budget analysis, and monitoring.

5.2.2 Sharing of Data – The Parties agree, to the fullest extent permitted by law, to make all data necessary to facilitate development and implementation of the GSPs available to the other Party and conduct information exchange, either through a formal or informal request, in a timely fashion. To the extent it is necessary to make a written request for information to another Party, each Party shall designate a representative to respond to information requests. Nothing in this Agreement shall be construed to prohibit any Party from voluntarily exchanging information with any other Party, as permitted by law.

5.2.3 Confidentiality – It is understood and agreed that a Party to this Agreement may provide the other Party with confidential information. To ensure the protection of such confidential information and inconsideration of the agreement to exchange said information, appropriate arrangements may be made to restrict or prevent disclosure.

5.2.4 MCWRA Data – It is further understood that information to be exchanged may include data obtained from the Monterey County Water Resources Agency (MCWRA) under agreements with the MCWRA. The Parties agree to make the data obtained from MCWRA available for information exchange to the extent permitted by law, and as long as provision of such exchanges follow the terms of each Party’s separate confidentiality agreement with MCWRA.

5.3 Methodologies and Data – Pursuant to Water Code Section 10727.6 and 14 CCR 357.4(b), the Parties hereby agree to establish common data and methodologies for the coordinated GSPs for the 180/400 Foot Aquifer Subbasin. These data and methodologies include: a) groundwater elevation data; b) groundwater extraction data; c) surface water supply; d) total water use; e) changes in groundwater storage; f) water budgets; and g) sustainable yield.

5.4 Monitoring Network – In accordance with 23 CCR 354.32-354.40, the Parties hereby agree to collaborate on the development and maintenance of a monitoring network in the 180/400 Foot Aquifer Subbasin. The Parties shall determine the network monitoring objective protocols and data reporting requirements to achieve measurable objectives to be set forth in the coordinated GSPs. Existing monitoring sources in the 180/400 Foot Aquifer Subbasin will be considered by the Parties for inclusion in the monitoring network.

5.4.1 Sustainability Indicators – The Parties will establish a monitoring network for the 180/400 Foot Aquifer Subbasin that will establish the following sustainability indicators: a) chronic lowering of groundwater levels; b) reduction in groundwater storage; c) degraded water quality; d) seawater intrusion; and e) land subsidence.

5.4.2 Frequency of Measurements – The Parties shall also establish the frequency of measurements of the monitoring network within the 180/400 Foot Aquifer Subbasin based upon the following factors: a) the amount of current and projected groundwater use in the 180/400 Foot Aquifer Subbasin; b) aquifer characterization; and c) potential impacts to beneficial uses and users of groundwater and property interests.

5.5 Coordinated Water Budget – In accordance with 23 CCR 354.18, the Parties hereby agree to include a methodology for establishing a coordinated water budget in the coordinated GSPs for the 180/400 Foot Aquifer Subbasin. The water budget shall provide an accounting and assessment of the total annual volume of groundwater and surface water entering and leaving this Subbasin, including historical, current and projected water budget conditions, and the change in the volume of water stored. In addition, the water budget for the MGSA GSP will recognize local data and conditions related to recharge, inter-aquifer flow and seawater intrusion within the context of the regional, Subbasin-wide water budget. The Parties shall use the methodology agreed upon to estimate future baseline conditions of supply, water demand and surface water supply availability or reliability over the planning and implementation horizon for the projected water budget.

SECTION 6 GSP SUBMISSION AND IMPLEMENTATION OF THE GSPs

6.1 GSP Submission – Each Party is responsible to ensure that its own GSP complies with the statutory requirements of SGMA including, but not limited to, the filing deadline and the incorporation of this Agreement therein. Each Party shall submit their respective GSPs to the DWR and the submitted GSPs shall be consistent with this Agreement.

6.2 GSP Implementation – The Parties to this Agreement intend that their individual GSPs will be implemented in a coordinated manner to satisfy the requirements of SGMA and its related regulations. The Parties will develop a coordinated data management system for the 180/400 Foot Aquifer Subbasin sufficient to provide the mandated data and fulfill the requirements set forth in SGMA and its related regulations.

6.3 No Adjudication or Alternative Plans – As of the date of this Agreement there are no portions of the 180/400 Foot Aquifer Subbasin that have been adjudicated or have submitted to DWR for DWR’s approval of an alternative to a GSP pursuant to Water Code Section 10733.6.

SECTION 7 AMENDMENTS AND PERIODIC REVIEW OF AGREEMENT – Any amendment to the Agreement must be made by mutual consent of both Parties, by the issuance of a written modification signed and dated by properly authorized, signatory official of each Party, prior to any changes becoming effective. Notwithstanding the foregoing, the Parties agree to promptly prepare and approve any such amendment as necessary to meet the legal requirements under SGMA. This Agreement shall be reviewed by the Parties as part of a five (5) year assessment and revised as necessary and executed by the Parties.

SECTION 8 DISPUTE RESOLUTION – In the event that any dispute arises between the Parties relating to this Agreement or the rights and obligations arising from this Agreement, the aggrieved Party shall provide written notice to the other Party of the dispute. Within thirty (30) days after such written notice, the Parties shall attempt in good faith to resolve the dispute through informal means. If the Parties cannot agree upon a resolution of the dispute within thirty (30) days from the written notice, the dispute may be submitted to voluntary mediation prior to commencement of any legal action. The cost of mediation shall be paid equally by the Parties. Upon completion of the mediation, if any, and if the controversy has not been resolved, either Party may exercise any and all rights to bring a legal action relating to the dispute.

SECTION 9 PARTY AUTONOMY – The Parties to this Agreement will implement this Agreement in a manner that defines, supports, and maintains their autonomy.

9.1 This instrument in no way restricts the Parties, or any cooperating third parties, from participating in similar activities with other public or private agencies, organizations, and individuals or from implementing groundwater sustainability planning in accordance with SGMA.

9.2 It is expressly declared that this Agreement hereby does not constitute a partnership, joint venture, agency or contract of employment between the Parties.

9.3 It is agreed and understood by the Parties hereto that this Agreement has been arrived at through negotiation and that no Party is to be deemed the Party which prepared this Agreement within the meaning of Civil Code section 1654.

SECTION 10 GENERAL PROVISIONS

10.1 Authority of Signers – The individuals executing this Agreement represent and warrant that they have the authority to enter into this Agreement and to legally bind the Party for whom they are signing to the terms and conditions of this Agreement.

10.2 Governing Law – The validity and interpretation of this Agreement will be governed by the laws of the State of California without giving effect to the principles of conflict of laws.

10.3 Severability – Except as provided for cure by amendment in Section 7 of the Agreement, if any term or condition of this Agreement is determined to be unenforceable by a court of competent jurisdiction, it is the Parties' intent that the remaining provisions of this Agreement will remain in full force and effect. Notwithstanding the foregoing, any such invalid provision shall be amended by the Parties to become valid and enforceable in a way that is most closely akin to the Parties' intent.

10.4 Counterparts – This Agreement may be executed in counterparts and by facsimile or electronic signature, and when joined together, the counterparts shall constitute one agreement, which shall be binding on the parties, even though all signatures may not be on one original or the same counterpart.

10.5 Good Faith – The Parties agree to exercise their best efforts and good faith to effectuate all terms and conditions of this Agreement and to execute any such instruments and documents as are reasonably necessary, appropriate or proper to carry out the intent and purposes of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Coordination Agreement as of the latest date appearing below the signatures.

SALINAS VALLEY BASIN
GROUNDWATER SUSTAINABILITY
AGENCY

CITY OF MARINA GROUNDWATER
SUSTAINABILITY AGENCY

By: _____
{Signature}

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Leslie J. Girard
SVBGSA Agency Counsel

Deborah Mall
MGSA Agency Counsel

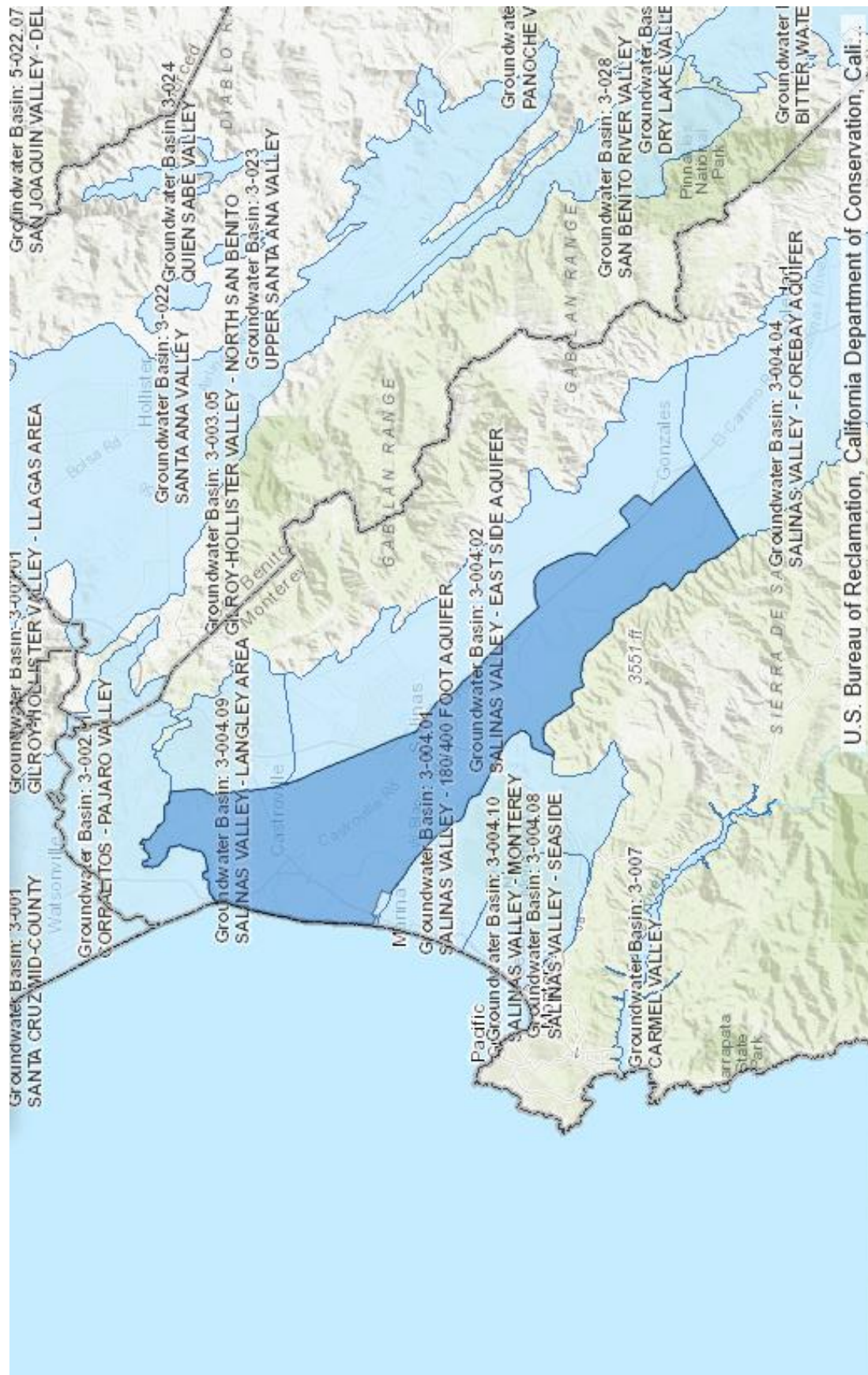
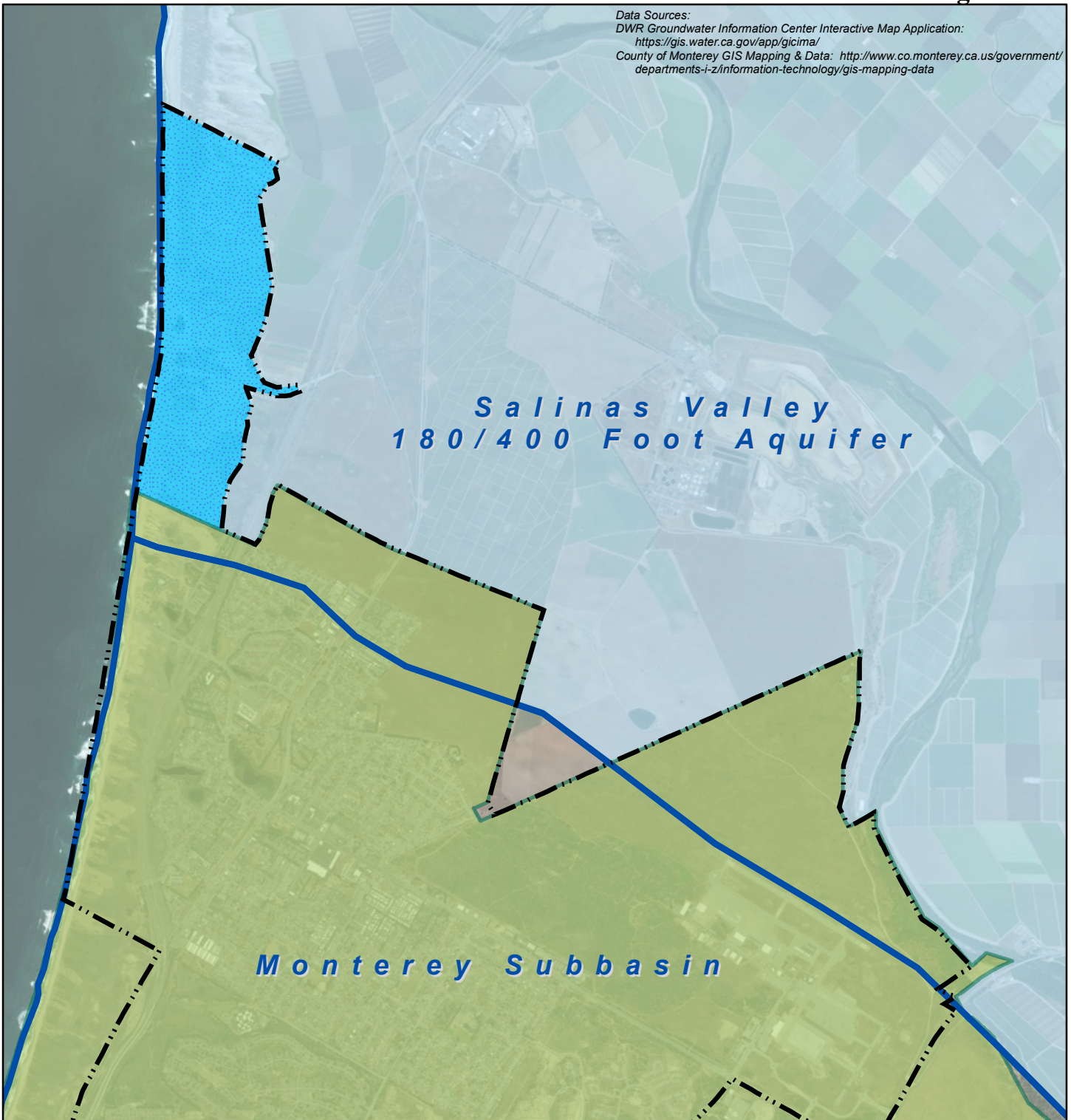
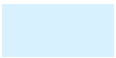


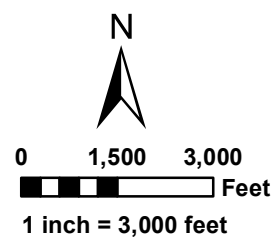
EXHIBIT B to Agreement

Data Sources:
DWR Groundwater Information Center Interactive Map Application:
<https://gis.water.ca.gov/app/gicima/>
County of Monterey GIS Mapping & Data: <http://www.co.monterey.ca.us/government/departments-i-z/information-technology/gis-mapping-data>



Proposed City of Marina Groundwater Sustainability Agency

-  Proposed City of Marina GSA (overlaps existing SVBGSA)
-  Existing Salinas Valley Basin GSA
-  Existing Marina Coast Water District GSA
-  Bulletin 118 Groundwater Basin Boundary
-  City of Marina Limits



Map Date: April 2018

August 12, 2019

Item No. **8g(3)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of August 20, 2019

RECOMMENDATION TO CONSIDER ADOPTING RESOLUTION NO. 2019-, APPROVING A COORDINATION AGREEMENT BETWEEN THE MARINA GROUNDWATER SUSTAINABILITY AGENCY AND THE SALINAS VALLEY BASIN GROUNDWATER SUSTAINABILITY AGENCY FOR THE PREPARATION OF GROUNDWATER SUSTAINABILITY PLANS IN ACCORDANCE WITH THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT, AND; AUTHORIZING CITY MANAGER TO EXECUTE THE PUBLIC IMPROVEMENT AGREEMENT ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

REQUEST:

It is requested that the City Council:

1. Adopt Resolution No. 2019-, approving a coordination agreement between the Marina Groundwater Sustainability Agency (MGSA) and the Salinas Valley Basin Groundwater Sustainability Agency (SVBGSA) for the preparation of Groundwater Sustainability Plans (GSPs) in accordance with the Sustainable Groundwater Management Act (SGMA), and;
2. Authorizing the City Manager to execute the Agreement on behalf of the City subject to final review and approval by the City Attorney.

BACKGROUND:

In September 2014, Governor Brown signed historic legislation requiring that California's critical groundwater resources be sustainably managed by local agencies. The SGMA gives local agencies including cities, counties and water districts or agencies, authority to sustainably manage groundwater over the long-term.

On March 20th, 2018, City Council passed Resolution 2018-25 forming the Marina Groundwater Sustainability Agency (MGSA) to undertake sustainable groundwater management within a portion of the Salinas Valley Ground Water Basin 180/400 Foot Aquifer Subbasin within the City.

The MGSA is required to assess the conditions in its local subbasin and to adopt a locally-based GSP. The cornerstone of SGMA is the development and adoption of a GSP by a GSA or coordinated GSPs by a collection of GSAs. The SGMA-compliant GSPs for the critically over drafted 180/400 Foot Aquifer Subbasin must be adopted by January 31st, 2020 or be subject to State Water Resources Control Board intervention pursuant to Water Code Section 10735.2(a)(2). Because the MGSA area overlaps the SVBGSA area for the entire groundwater basin in which the MGSA is located, a coordination agreement between the two GSAs will be needed for the state to accept the GSPs prepared by the overlapping agencies.

ANALYSIS:

To meet its obligations to protect local groundwater resources and comply with SGMA, MGSA must develop a locally-focused GSP for its jurisdictional area. Staff will coordinate efforts with the more regional GSP currently under preparation for the remainder of the 180/400-Foot Subbasin by the SVBGSA.

Staff for the MGSA and SVBGSA have prepared the draft intra-basin coordination agreement (“**EXHIBIT A**”) pursuant to Water Code § 10727.6 and 23 C.C.R. § 357.4. If approved, the agreement will allow for the exchange of data and information on the two GSPs. The agreement, and close communication between staff and the City’s consultants, will help assure that the preparation and implementation of the two GSPs in the 180/400-Foot Aquifer Subbasin are effectively coordinated, subbasin sustainability goals are met, and the interests of all beneficial water users and uses are recognized and protected.

FISCAL IMPACT:

On June 24th, 2019, City Council approved a professional services agreement with Formation Environmental in the amount of \$274,780 with funding from the General Fund for the preparation of the MGSA GSP. The agreement requires that the respective GSAs fund the preparation of each agencies GSP.

CONCLUSION:

This request is submitted for City Council consideration and comment.

Brian McMinn, P.E., P.L.S.
Public Works Director/City Engineer
City of Marina

REVIEWED/CONCUR:

Layne P. Long
City Manager
City of Marina