

MOUND BASIN GROUNDWATER SUSTAINABILITY AGENCY

NOTICE OF MEETING*

NOTICE IS HEREBY GIVEN that the Mound Basin Groundwater Sustainability Agency (“Agency”) Board of Directors (“Board”) will hold a **Board Meeting** at **10:00 A.M. on Thursday, November 16, 2017** at the Community Meeting Room, Ventura City Hall, 501 Poli Street, California 93001

MOUND BASIN GROUNDWATER SUSTAINABILITY AGENCY BOARD OF DIRECTORS

AGENDA

Thursday, November 16, 2017

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. DIRECTOR ANNOUNCEMENTS**
- 4. PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA**

The Board will receive public comments on items not appearing on the agenda and within the subject matter jurisdiction of the Agency. The Board will not enter into a detailed discussion or take any action on any items presented during public comments. Such items may only be referred to the Executive Director or other staff for administrative action or scheduled on a subsequent agenda for discussion. Persons wishing to speak on specific agenda items should do so at the time specified for those items. The presiding Chair shall limit public comments to three minutes.

5. CONSENT ITEMS

- a. Approve Minutes from October 19, 2017 Regular Meeting.**

6. ACTION ITEMS

a. Conflict of Interest Code

The Board will review and consider approval of the attached Conflict of Interest Code.

b. Funding Options for Fiscal Year 2017/18

The Board shall discuss the options for funding the approved Fiscal Year 2017/2018 Budget and the possibility of budget amendments.

c. Discussion of Options for Appointing Treasurer and Auditor

The Board shall discuss the options for appointing a Treasurer and Auditor.

d. Funding options for GSAs

The Board shall discuss options under SGMA for funding the Agency and the development of the groundwater sustainability plan.

** In compliance with the Americans with Disabilities Act, all possible accommodations will be made for individuals so they may attend and participate in meetings.*

e. Discussion of Bylaws

The Board shall discuss the development of the Bylaws for the Agency and consider establishing an ad hoc committee to develop the Bylaws.

7. EXECUTIVE DIRECTOR'S REPORT

- a. Update on Liability Insurance
- b. Future Meeting Schedule

8. ADJOURNMENT

Administrative Reports relating to this agenda are available in the City of Ventura City Clerk's Office, 501 Poli St., Room 204, Ventura, during normal business hours as well as on the City of Ventura's Web Site (<https://www.cityofventura.ca.gov/1075/Water-Sources>). Materials related to an agenda item submitted to the Agency after distribution of the agenda packet are available for public review at the City Clerk's Office.

This agenda was posted before 11/13/17 at 10:00 a.m. on the City of Ventura City Hall Public Notices Board and on the Internet.

In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact the Ventura Water Office at (805) 652-4587 or the California Relay Service at (866) 735-2929. Notification by 11/15/17, at 12:00 p.m. will enable the Agency to make reasonable arrangements for accessibility to this meeting.

MOUND BASIN GROUNDWATER SUSTAINABILITY AGENCY

Item No. 6(a)

DATE: November 16, 2017
TO: Board of Directors
SUBJECT: Conflict of Interest Code

SUMMARY

The Joint Exercise of Powers Agreement (“JPA Agreement”) requires that the Agency adopt a local conflict of interest code pursuant to the schedule and provisions described below. The attached Conflict of Interest Code was modeled on the Conflict of Interest Code developed by the Upper Ventura River Groundwater Agency (“UVRGA”) and reflects suggested revisions from the Counsel to the County of Board of Supervisors to UVRGA’s Conflict of Interest Code.

RECOMMENDED ACTION

Adopt Resolution 2017-3, the Conflict of Interest Code, (attached) and submit the code to the County of Ventura for review.

BACKGROUND

Section 8.5 of the JPA Agreement requires the Board of Directors to adopt a local conflict of interest code pursuant to the provisions of the Political Reform Act of 1974 (Government Code sections 81000, et seq.).

At the July 20, 2017 meeting, Director McDermott volunteered to draft a Conflict of Interest Code for the Board’s consideration since he had just completed a similar effort for another Groundwater Sustainability Agency. On July 20, 2017, the Interim Executive Director received a letter from the Clerk of the Board of Supervisors for Ventura County notifying the Agency that it must submit a proposed conflict of interest code to the Ventura County Board of Supervisors for review no later than December 6, 2017.

On October 10, 2017, the UVRGA received the attached comments on its Conflict of Interest Code. The following substantial comments and edits were made on Section 2 of Resolution 2017-3:

- 1) It is unclear why the resolution refers to the positions as “statutory filers” under Government Code section 87200. It is possible that some (or, I suppose theoretically, even all) of the positions are “officials who manage public investments” pursuant to section 87200; if so, the positions should be specified as such in the resolution to connect the dots. If some or all of the positions do not qualify as such (which seems likely), they are not “statutory filers” because they are not covered by section 87200 and instead must be designated in the code and given a disclosure category. Also, the FPPC has previously advised the county that it does not want to receive Form 700s for any “officials who manage public

investments,” so the agency should check with FPPC before stating that all Form 700s for any such filers go to the FPPC (See FPPC Reg 18753.)

- 2) Amendment required to line 26, “The Upper Ventura River Groundwater Agency Secretary shall be responsible for the retention of a copy of all statements of economic interests and make them available for public inspection and reproduction (Government Code §81008).” Pursuant to Government Code section 87500(k) the code reviewing body for the UVRGA is the County of Ventura Board of Supervisors. Therefore, the County of Ventura Clerk of the Board of Supervisors is the designated Filing Officer and should retain the original statements for at least the following positions: the Board of Directors, Alternate Directors, and the Executive Director.

At the October 19, 2017 meeting, the Board directed staff to make the suggested edits and bring the Conflict of Interest Code back to the Board for review and approval at its November meeting.

FISCAL SUMMARY

There is no fiscal impact associated with this action.

Action: _____

Motion: _____ 2nd: _____

K. Brown___ M.Mobley___ G.Shephard___ J.Chambers___ C.Everts___

1 **BOARD OF DIRECTORS**

2 **MOUND BASIN GROUNDWATER SUSTAINABILITY AGENCY**

3 **RESOLUTION NO. 2017-03**

4 **A RESOLUTION OF THE MOUND BASIN GROUNDWATER SUSTAINABILITY**
5 **AGENCY (AGENCY) ADOPTING A CONFLICT OF INTEREST CODE**

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7
8 **WHEREAS**, the Political Reform Act, Government Code §81000 *et seq.* requires every
9 state and local government agency to adopt and promulgate a Conflict of Interest Code pursuant
10 to Government Code §87300; and,

11
12 **WHEREAS**, the Fair Political Practices Commission (“FPPC”) has adopted a regulation
13 which contains terms of a standard model Conflict of Interest Code (2 California Code of
14 Regulations §18730), which is attached hereto as Attachment A, and will be amended to conform
15 to amendments in the Political Reform Act after public notice and hearing conducted by the
16 FPPC; and,

17
18 **WHEREAS**, the standard model Conflict of Interest Code will help ensure compliance
19 by the Agency with the Political Reform Act.

20
21 **NOW, THEREFORE**, the Board of Directors of the Mound Basin Groundwater Sustainability
22 Agency does hereby resolve, find, determine and order as follows:

23
24 Section 1: The terms of the standard model Conflict of Interest Code adopted pursuant to
25 2 California Code of Regulations §18730, a copy of which is attached hereto as Attachment A,
26 and any amendments to it duly adopted by the FPPC is hereby adopted and incorporated by
27 reference as the Conflict of Interest Code for the Agency. This standard model Conflict of
28 Interest Code and Attachments B, C, and D to this Resolution, in which members and employees
29 are designated and disclosure categories are set forth and explained, shall constitute the Conflict
30 of Interest Code of the Agency.

31
32 Section 2: Pursuant to this Resolution, employees designated in Attachment D hereto
33 shall file statements of economic interests (Form 700) with the Mound Basin Groundwater
34 Sustainability Agency Secretary, who shall forward a copy of the statement to the FPPC. The
35 Agency Secretary shall be responsible for the retention of a copy of all of those statements of
36 economic interests and make them available for public inspection and reproduction (Government
37 Code §81008). The Chair, Vice-Chair, Members of the Board of Directors, Alternate Directors,
38 Executive Director, Secretary, Treasurer, and General Counsel of the Agency shall file a Form
39 700 statement pursuant to State law (Government Code § 87200 *et seq.*) with the Clerk of the
40 County of Ventura Board of Supervisors.
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Section 3: The Agency shall certify as to the adoption of this Resolution and cause the filing of said Conflict of Interest Code in the manner prescribed by law.

PASSED, APPROVED, AND ADOPTED this 16th day of November, 2017.

Michael Mobley, Board Chair

ATTEST:

Jennifer Tribo
Interim Executive Director

ATTACHMENT A

**CONFLICT OF INTEREST CODE
MOUND BASIN GROUNDWATER SUSTAINABILITY AGENCY**

TITLE 2. ADMINISTRATION
DIVISION 6. FAIR POLITICAL PRACTICES COMMISSION
CHAPTER 7. CONFLICTS OF INTEREST

ARTICLE 2. DISCLOSURE

2 CCR §18730

§18730. Provisions of Conflict of Interest Codes

- (a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Attachments referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code Section §87300 or the amendment of a conflict of interest code within the meaning of Government Code Section §87307 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections §81000, *et seq.* The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code Section §87100, and to other state or local laws pertaining to conflicts of interest.
- (b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. of Regs. Sections §18110, *et seq.*), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in Attachment D are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section §87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections §87200, *et seq.*

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under Article 2 of Chapter 7 of the Political Reform Act, Government Code section §87200; and

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in Attachment C specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in Attachment D. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.²

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the

effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

- (C) Annual Statements. All designated employees shall file statements no later than April 1.
- (D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.
- (E) Reports for military service as defined in the Service member's Civil Relief Act, the deadline for the annual statement of economic interests is 30 days following his or her return to office, provided the person, or someone authorized to represent the person's interests, notifies the filing officer in writing prior to the applicable filing deadline that he or she is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of his or her military status.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

- (A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:
 - (1) File a written resignation with the appointing power; and
 - (2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

- (A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements.

Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property³ is required to be reported,⁴ the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;

4. A statement whether the fair market value of the investment or interest in real property exceeds one thousand dollars (\$1,000), exceeds ten thousand dollars (\$10,000), or exceeds one hundred thousand dollars (\$100,000).

(B) Personal Income Disclosure. When personal income is required to be reported,⁵ the statement shall contain:

1. The name and address of each source of income aggregating two hundred fifty dollars (\$250) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000);
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;
2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

(D) Business Position Disclosure.

When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the

business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal during Reporting Period.

In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

- (A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (a), (b), and (c) of Government Code Section §89501 shall apply to the prohibitions in this section.

This Section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code Section §89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$290.

- (A) No member of a state board or commission, and no designated employee of the state or local government agency, shall accept gifts with a total value of more than \$290 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Government Code Section §89503 shall apply to the prohibitions in this Section.

(8.2) Section 8.2. Loans to Public Officials.

- (A) No elected officer of a state or local government agency shall, from this date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member or consultant of the state or local government agency in which the elected officer holds office over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.
2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans from a person which, in the aggregate, do not exceed two hundred fifty dollars (\$250) at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.
2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
 - a. The date the loan was made.
 - b. The date the last payment of \$100 or more was made on the loan.

- c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty (\$250) during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
2. A loan that would otherwise not be a gift as defined in this title.
3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

- (A) Any business entity in which the designated employee has a direct or indirect investment worth one thousand dollars (\$1,000) or more;
- (B) Any real property in which the designated employee has a direct or indirect interest worth one thousand dollars (\$1,000) or more;
- (C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars \$250 or more in value provided to, received by or

promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$290 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more.

(10) Section 10. Manner of Disqualification.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of

other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code Sections §81000-§91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code Section §87100 or §87450 has occurred may be set aside as void pursuant to Government Code Section §91003. A violation of this Code may result in discipline under the Authority's Personnel Rules. Such discipline may include discharge.

ENDNOTES

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under Article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section §81004.

² See Government Code Section §81010 and 2 Cal. Code of Regs. Section §18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

³ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴ Investments and interests in real property which have a fair market value of less than \$1,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

⁵ A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Note: Authority cited: Government Code Section §83112. Reference: Sections §87103(e), §87300-§87302, §89501, §89502 and §89503, Government Code.

HISTORY

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14). Certificate of Compliance included.
2. Editorial correction (Register 80, No. 29).
3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).
4. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).
5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).
6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).
7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).
8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; operative 9-27-90 (Reg. 90, No. 42).
9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).
10. Amendment of subsection (b)(5.5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93; operative 2-4-93 (Register 93, No. 6).
11. Change without regulatory effect adopting Conflict of Interest Code for California Mental Health Planning Council filed 11-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.
12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).
13. Editorial correction adding History 11 and 12 and deleting duplicate section number (Register 94, No. 17).
14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b)(8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
15. Editorial correction inserting inadvertently omitted language in footnote 4 (Register 96, No. 13).

16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1)(B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).
18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).
19. Editorial correction of subsection (a) (Register 98, No. 47).
20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative 5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).
21. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).
22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).
23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4. filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).
24. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 1-16-2003; operative 1-1-2003. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).
25. Editorial correction of History 24 (Register 2003, No. 12).
26. Editorial correction removing extraneous phrase in subsection (b)(9.5)(B) (Register 2004, No. 33).
27. Amendment of subsections (b)(2)-(3), (b)(3)(C), (b)(6)(C), (b)(8.1)-(b)(8.1)(A), (b)(9)(E) and (b)(11)-(12) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).
28. Amendment of subsection (b)(7)(A)4. filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).
29. Amendment of subsections (a), (b)(1), (b)(3), (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 12-18-2006; operative 1-1-2007. Submitted to OAL pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).
30. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 10-31-2008; operative 11-30-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative

Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2008, No. 44).

31. Amendment of section heading and section filed 11-15-2010; operative 12-15-2010. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 47).

32. Amendment of section heading and subsections (a)-(b)(1), (b)(3)-(4), (b)(5)(C), (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) and amendment of footnote 1 filed 1-8-2013; operative 2-7-2013. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2013, No. 2).

33. Amendment of subsections (b)(8.1)-(b)(8.1)(A), (b)(8.2)(E)3. and (b)(9)(E) filed 12-15-2014; operative 1-1-2015 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations. Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2014, No. 51).

34. Redesignation of portions of subsection (b)(8)(A) as new subsections (b)(8)(B)-(D), amendment of subsections (b)(8.1)-(b)(8.1)(A), redesignation of portions of subsection (b)(8.1)(A) as new subsections (b)(8.1)(B)-(C) and amendment of subsection (b)(9)(E) filed 12-1-2016; operative 12-31-2016 pursuant to Cal. Code Regs. tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 49).

This database is current through 3/10/17 Register 2017, No. 10
2 CCR § 18730, 2 CA ADC § 18730

ATTACHMENT B

CONSULTANTS

Commission Regulation §18700 defines “consultant” as an individual who, pursuant to a contract with a state or local government agency:

(A) Makes a governmental decision whether to:

- (i) Approve a rate, rule, or regulation;
- (ii) Adopt or enforce a law;
- (iii) Issue, deny, suspend, or revoke any permit license, application, certificate, approval, order, or similar authorization or entitlement;
- (iv) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract which requires agency approval;
- (v) Grant agency approval to a contract which requires agency approval and in which the agency is a party or to the specifications for such a contract;
- (vi) Grant agency approval to a plan, design, report, study, or similar item;
- (vii) Adopt, or grant agency approval of policies, standards, or guidelines for the agency, or for any subdivision thereof; or

(B) Serves in a staff capacity with the agency and in that capacity performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the Agency’s Conflict of Interest Code.

Consultant*

Consultant shall be included in the list of designated employees and shall disclose pursuant to the broadcast disclosure category in the code subject to the following limitation:

The Executive Director may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in the section. Such written determination shall include a description of the consultant’s duties and, based upon the description, a statement of the extent of disclosure requirements. The Executive Director’s determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

ATTACHMENT C
DISCLOSURE CATEGORIES

GENERAL PROVISIONS

Designated employees or individuals shall disclose their financial interest pursuant to the appropriate disclosure category as indicated. Disclosure categories pertain to investments, real property, business positions and sources of income, including loans, gifts and travel payments from sources located in or doing business within the jurisdiction of the Mound Basin Groundwater Sustainability Agency (“Agency”).

DISCLOSURE CATEGORIES

Category 1:

A designated employee in this category must report all interests in real property as well as investments, business positions, sources of income, and gifts from any source in, or doing business in, the jurisdiction of the Agency, and all other interests, which are subject to the regulation or supervision of the Agency.

Category 2:

A designated employee in this category must report all interests in real property located within the Agency. Investments, business positions in business entities and income, gifts, loans and travel payments, from sources in, or doing business within the Agency which:

1. Engages in the appraisal, acquisition, disposal, development of real property, or rehabilitation or construction of improvements on real property including architects, contractors, and subcontractors.
2. Provides services, supplies, materials, machinery, or equipment of any type utilized by the Agency to which the employee is assigned.
3. Are of the type which is subject to the regulation or supervision of the Agency.

Category 3:

A designated employee in this category must report all interests in real property located within the Agency. Investments, business positions in business entities and income, gifts, loans and travel payments from sources in, or doing business within the Agency which:

1. Provide services, supplies, materials, machinery or equipment of any type utilized by designated filers in the Agency.
2. Are of the type which is subject to the regulation or supervision of the Agency.

Category 4:

A designated employee in this category must report all interests in: real property located within the Agency; investments, business positions in business entities, income, and gifts from sources in, or doing business within the Agency; and, all other interests which are subject to the regulation or supervision of the Agency.

ATTACHMENT D
DESIGNATED EMPLOYEES

POSITIONS TITLES	DISCLOSURE CATEGORY
Assistant General Counsel	4
Assistant Executive Director	4
Assistant Secretary	1
Consultants that will make or participate in making governmental decisions on behalf of the Agency	4*

*Disclosure Category 4 shall generally apply; however, the Executive Director, after consultation with the Agency General Counsel, shall designate the disclosure category for each consultant subject to this Code. If a consultant is performing duties the same as an “employee” the consultant will be assigned the same reporting category. See Attachment B for the consultant definition.

MOUND BASIN GROUNDWATER SUSTAINABILITY AGENCY

Item No. 6(b)

DATE: November 16, 2017
TO: Board of Directors
FROM: Jennifer Tribo, Interim Executive Director
SUBJECT: Funding Options for Fiscal Year 2017/18

SUMMARY

At its October 19, 2017 meeting, the Board approved a budget of \$104,027 for fiscal year 2017/18. This includes \$17,250 worth of in-kind services provided by the City of Ventura and \$86,777 in cash expenditures.

RECOMMENDED ACTION

- The Board shall discuss and identify the funding sources available to cover the cash expenditures for the approved FY 2017/18 budget.
- The Board may direct staff to revise the FY 2017/18 budget to reflect additional in-kind services that can replace cash expenditures.
- The Board may direct staff to work with member agencies to draft funding or cost share agreements with member agencies in order to fund the budget for FY 2017/18.

BACKGROUND

Article 14 of the Joint Powers Agreement (“JPA”) provides that the Agency may be funded through voluntary contributions from Members. In accordance with Government Code section 6512.1, the Agency may reimburse Members for contributions made once any revenue is generated by the Agency. Section 10.4 of the JPA allows the Agency to contract with a Member to provide financial services if a written agreement between entities is executed.

At its October 19, 2017 meeting, the Board voted to enter into a MOU with the City of Ventura to perform interim accounting functions on behalf of the Agency. Execution of the agreement was contingent on approval of the member agencies, because the agreement required a member agency to remit its share of payment to the City within forty-five days. Director Brown and Director Shephard indicated at the meeting that the City and County had authorized funding for the Agency. Director Mobley indicated that United Water Conservation District (UWCD) staff would need to request funding authorization from the UWCD Board.

At its November 8, 2017 meeting, the UWCD Board voted to provide the Mound Basin Groundwater Sustainability Agency with in-kind support on a cost reimbursable basis up to a value of \$50,000.

FISCAL SUMMARY

The Agency has previously approved the expenditure of up to \$18,000 to Bondy Groundwater Consulting for the development of a Proposition 1 Grant proposal to DWR.

Action: _____

Motion: _____ 2nd: _____

K. Brown ___ M.Mobley___ G.Shephard___ J. Chambers___ C.Everts___

MOUND BASIN GROUNDWATER SUSTAINABILITY AGENCY

Item No. 6(c)

DATE: November 16, 2017
TO: Board of Directors
FROM: Jennifer Tribo, Interim Executive Director
SUBJECT: Discussion of Options for Appointing Treasurer and Auditor

SUMMARY

Article 13 of the Joint Exercise of Powers Agreement (“JPA Agreement”) requires the Agency to appoint a treasurer and auditor consistent with the requirements in the Government Code.

RECOMMENDED ACTION

The Board shall discuss the options for appointing a Treasurer and Auditor for the Agency.

BACKGROUND

Section 13.3 of the JPA Agreement provides that the treasurer and auditor shall be appointed and/or retained in the manner, and shall perform such duties and responsibilities, specified in sections 6505, 6505.5 and 6505.6 of the Act. The treasurer shall be bonded in accordance with the provisions of Government Code section 6505.1, if applicable.

Options for Appointment of Treasurer:

The Government Code allows the following options for appointment of a treasurer for the Agency:

- 1. Appoint the treasurer of one of the member agencies;
- 2. Appoint the treasurer for Ventura County;
- 3. Contract with a certified public accountant; or
- 4. Appoint an officer or employee of the Agency.

At its October 19, 2017, the Board authorized the execution of an MOU with the City of Ventura to perform interim accounting functions on behalf of the Agency in order Agency to pay for legal, technical, and consultant services received before the appointment of a Treasurer and permanent Executive Director. Upon further review, the City of Ventura is unable to provide interim accounting services for the Mound Basin GSA.

FISCAL SUMMARY

Depending upon the option selected, there may be a fiscal impact associated with this agenda item.

Action: _____

Motion: _____ 2nd: _____

K. Brown ___ M.Mobley___ G.Shephard___ J. Chambers___ C.Everts___

MOUND BASIN GROUNDWATER SUSTAINABILITY AGENCY

Item No. 6(d)

DATE: November 16, 2017
TO: Board of Directors
FROM: Jennifer Tribo, Interim Executive Director
SUBJECT: Funding Options for GSAs

SUMMARY

The Board shall discuss different funding options under SGMA for funding the Agency and the development of the groundwater sustainability plan.

RECOMMENDED ACTION

The Board shall discuss different funding options under SGMA for funding the Agency and the development of the groundwater sustainability plan.

BACKGROUND

The Upper Ventura River Groundwater Agency (UVRGA) discussed the issue of financial authority under SGMA at its May 11, 2017 meeting. The staff report from that meeting prepared by the UVRGA's legal counsel is attached for the benefit of the Directors.

FISCAL SUMMARY

There is no fiscal impact associated with this agenda item.

Action: _____

Motion: _____ 2nd: _____

K. Brown ___ M.Mobley___ G.Shephard___ J. Chambers___ C.Everts___

UPPER VENTURA RIVER GROUNDWATER AGENCY

Item No. 6(b)

DATE: May 11, 2017
TO: Board of Directors
FROM: Jena Acos, Legal Counsel
SUBJECT: GSA Financial Authority under SGMA

SUMMARY

At its last meeting, the Upper Ventura River Groundwater Agency (“Agency”) Board of Directors (“Board”) requested an update from staff and legal counsel concerning the financial authorities granted to a Groundwater Sustainability Agency (“GSA”) under the Sustainable Groundwater Management Act (“SGMA”) for financing the development and implementation of a Groundwater Sustainability Plan (“GSP”). This staff report provides that summary and staff and counsel will be available to further discuss with the Board.

There is no fiscal impact associated with this agenda item.

RECOMMENDED ACTION

Receive and discuss staff update on the financial authority granted to GSAs under SGMA and provide instruction to staff.

BACKGROUND

Under SGMA, a GSA is authorized to impose fees to help finance development and implementation of a GSP. The specific requirements for adoption and use of the fees differ depending on whether or not a GSP has been adopted.

Fee Authority Prior to GSP Adoption

SGMA allows a GSA to impose fees, including permit fees and fees on groundwater extraction “or other regulated activity,” to fund the costs of a basin’s groundwater sustainability program. (Wat. Code § 10730(a).) Fees may also be assessed to fund the preparation, adoption, or amendment of a Plan, and may also be used to fund investigations, inspection, enforcement, and program administration. (Wat. Code § 10730(a).)

Notwithstanding the above, a GSA is not authorized to impose fees on de minimis extractors unless the GSA has regulated that user under SGMA (i.e., pursuant to the regulatory authority set forth in Chapter 5). (Wat. Code § 1070(a).) A de minimis extractor is defined as a “person who extracts, for domestic purposes, two acre-feet or less per year.” (Wat. Code § 10721(e).) SGMA does not, however, restrict a GSA’s authority to regulate and impose fees on pumpers who extract two acre-feet or less for non-domestic use.

Attachment to Item 6(d) Funding Options for GSAs

In order to impose fees prior to GSP adoption, the GSA must hold a public meeting, at which interested parties must be able to give oral or written presentations. (Wat. Code § 10730(b)(1).) The GSA must provide notice of the time and place of the meeting pursuant to the requirements of Government Code section 6066. (Wat. Code § 10730(b)(2); see also Gov. Code § 6066 (requiring publication of notice once a week for two successive weeks).) The GSA must also post the notice on its website and mail the notice to all interested parties requesting notice by mail. (Wat. Code § 10730(b)(2).) At least 20 days prior to the meeting, the GSA must make available to the public all data upon which the proposed fee is based. (Wat. Code § 10730(b)(3).) Any action by the GSA to impose or increase fees must be done by ordinance or resolution. (Wat. Code § 10730(c).)

As an alternative method of collecting fees, a GSA may adopt a resolution requesting collection of fees in the same manner as municipal ad valorem taxes. (Wat. Code § 10730(d)(1).) A resolution adopted pursuant to this method must be furnished to the county auditor-controller and board of supervisors by August 1 of each year. (Wat. Code § 10730(d)(2).) The resolution must include a list of assessor parcel numbers and the amount to be collected for each parcel. (Wat. Code § 10730(d)(2).)

Although SGMA does not specifically state that Proposition 218 applies to a fee developed and imposed pre-GSP adoption, a cautious approach would assume that it does apply.

Fee Authority *Post* GSP Adoption

After adoption of a GSP, SGMA authorizes a GSA to impose fees on the extraction of groundwater from the basin to fund the costs of groundwater management, including groundwater replenishment; the acquisition of real property, facilities, or services; the supply and distribution of water; the administration and maintenance of a prudent reserve; and other necessary activities. (Wat. Code § 10730.2(a).) Such fees may include fixed fees or fees charged on a volumetric basis, including fees based on quantity of groundwater produced, the year in which the production of groundwater commenced, or impacts to the basin. (Wat. Code § 10730.2(d).)

A GSA is required to approve fees adopted pursuant to the authority set forth in Wat. Code § 10730.2(a) (i.e., post GSP-adoption fees) in accordance with Proposition 218. (Wat. Code § 10730.2(c).) Two California District Courts recently published conflicting decisions regarding whether groundwater extraction and replenishment fees are “property-related” fees subject to the requirements of Article XIII D of the California Constitution. (Compare *Great Oaks Water Co. v. Santa Clara Valley Water Dist.*, No. HO35260, 2015 WL 1403340 (Ca. Ct. App. Mar. 26, 2015) (opining that the Santa Clara Valley Water District’s groundwater extraction fee is a property-related fee under Art. XIII D imposed for water service and thus exempt from voter ratification) with *City of San Buenaventura v. United Water Conservation Dist.*, 2d. Civil No. B251810, 2015 WL 1212205 (Cal. Ct. App. March 17, 2015) (reasoning that United Water Conservation District’s pumping charges were regulatory in nature and thus were not property-related fees).) Although the California Supreme Court is expected to hear arguments in *City of San Buenaventura v. United Water Conservation District* later this summer, for the time

Attachment to Item 6(d) Funding Options for GSAs

being, the issue is undecided and it is prudent to assume that groundwater extraction fees are property-related and thus must comply with Proposition 218.

FISCAL SUMMARY

There is no fiscal impact associated with this agenda item.

Action: _____

Motion: _____ 2nd: _____

B. Kuebler___ M. Bergen___ J. Pratt___ M. Krumpschmidt___

J. McDermott___ L. Rose___ E. Ayala___

MOUND BASIN GROUNDWATER SUSTAINABILITY AGENCY

Item No. 6(e)

DATE: November 16, 2017
TO: Board of Directors
SUBJECT: Discussion of Bylaws

SUMMARY

The Joint Exercise of Powers Agreement (“JPA Agreement”) requires that the Agency adopt Bylaws pursuant to the schedule and provisions described below. The JPA Agreement also allows for the appointment of committees to assist in carrying out the purposes and objectives of the Agency.

RECOMMENDED ACTION

The Board will discuss the development of the Bylaws for the Agency and consider establishing an Ad Hoc Committee to develop the Bylaws.

A motion creating an Ad Hoc Committee should include the following details:

- Purpose of Ad Hoc Committee
- Individuals appointed to Ad Hoc Committee, including at least one Director
- Date of Ad Hoc Committee’s termination

BACKGROUND

Article 11 of the of the JPA Agreement requires the Board of Directors to be draft, approve, and amend Bylaws of the Agency to govern the day-to-day operations of the Agency on or before the first anniversary of the Board’s first meeting, which is June 22, 2018.

Article 12 of the of the JPA Agreement provides that the Board of Directors may from time to time appoint one or more advisory committees or establish standing or ad hoc committees to assist in carrying out the purposes and objectives of the Agency. The Board shall determine the purpose and need for such committees and the necessary qualifications for individuals appointed to them. Each committee shall include a Director as the chair thereof. Other members of each committee may be composed of those individuals approved by the Board of Directors for participation on the committee. However, no committee or participant on such committee shall have any authority to act on behalf of the Agency.

From August 17th meeting: Jennifer Tribo summarized the staff report. Director Shephard explained that County Counsel may be able to assist in the development of the Bylaws, but they are currently determining whether or not they could do so and what the fees would be. He suggested finalizing the work plan and budget before discussing the Bylaws further.

FISCAL SUMMARY

There is no fiscal impact associated with this action.

Action: _____

Motion: _____ 2nd: _____

K.Brown___ M.Mobley___ G.Shephard___ J.Chambers___ C.Everts___