

Eastern San Joaquin Groundwater Authority

Request for Qualifications On-Call Consultants List Groundwater Technical Assistance

Release Date: September 13, 2024

Due Date: 4:00 P.M., October 25, 2024

Submit to:

Brandon W. Nakagawa, P.E.
brandon.nakagawa@ssjid.gov
Interim Staff to the ESJGWA
Water Resources Coordinator
South San Joaquin Irrigation District

1 Introduction

The Eastern San Joaquin Groundwater Authority (ESJGWA) desires to develop a pre-qualified on-call list of consultants to provide technical assistance with the implementation of its Groundwater Sustainability Plan (GSP). Specifically, the ESJGWA needs immediate assistance with implementing its Groundwater Monitoring Improvement Project (Project) which may include securing access to well drilling sites, permitting and environmental compliance, procurement and installation of instrumentation and hardware, procurement of well drillers, monitoring well construction management, maintenance plans, and overall delivery of American Rescue Plan Act (ARPA) funded activities totaling \$2.1 Million which expires at the end of 2026. Additional general technical capabilities such as groundwater modeling, groundwater statistics, hydrogeologic data analysis, and groundwater quality analysis are desirable should the need arise.

1.1 Who We Are

The ESJGWA is a joint powers authority formed by the 16 Groundwater Sustainability Agencies (GSAs) within the Eastern San Joaquin Subbasin including parts of Calaveras, Stanislaus and San Joaquin Counties. The ESJGWA Members includes the Central Delta Water Agency (CDWA), Central San Joaquin Water Conservation District (CSJWCD), City of Lodi, City of Manteca, City of Stockton, Eastside San Joaquin GSA (composed of Calaveras County Water District [CCWD], Stanislaus County, and Rock Creek Water District), Linden County Water District (LCWD), Lockeford Community Services District (LCSD), North San Joaquin Water Conservation District (NSJWCD), Oakdale Irrigation District (OID), San Joaquin County No. 1, San Joaquin County No. 2, South Delta Water Agency (SDWA), South San Joaquin GSA, Stockton East Water District (SEWD), and Woodbridge Irrigation District (WID).

The ESJGWA is governed by a 16-Member Board of Directors and is advised by a Steering Committee and other various ad hoc committees as necessary. The Annual Budget is ultimately approved by the ESJGWA Board of Directors following a recommendation by the Steering Committee.

1.2 Eastern San Joaquin Groundwater Sustainability Plan

The Eastern San Joaquin Groundwater Sustainability Plan (ESJ GSP) was adopted by all 16 GSAs and was submitted to DWR ahead of the January 31, 2020 statutory deadline. Subsequently, the ESJ GSP was deemed incomplete by the Department of Water Resources (DWR). The revised ESJ GSP was readopted by all 16 GSAs and resubmitted to DWR ahead of the July 27, 2022 deadline.

On July 6, 2023, DWR issued a determination letter approving the revised ESJ GSP. The determination letter also included an additional eight (8) recommended corrective actions with directions to incorporate them in the 2025 ESJ GSP 5-year update. In 2024, the ESJGWA contracted Woodard & Curran to complete the 2025 ESJ GSP 5-year update. A public review

draft is expected to be circulated in October for 30-days with the final GSP adopted by all 16 GSAs and submitted to DWR by January 31, 2025.

As part of the ESJ GSP 5-year update, the ESJGWA is developing a 5-year Work Plan committing to several actions which will likely require technical assistance. The list of on-call consultants compiled through this Request for Qualifications (RFQ) process may be used to provide technical assistance for items listed in the 5-year Work Plan. Appropriations would come from the ESJGWA's Annual Budget or from future grants.

1.3 ARPA Funding Secured

On July 11, 2023, the San Joaquin County Board of Supervisors approved an ARPA grant to the ESJGWA in the amount of \$2,104,000 for the Groundwater Monitoring Improvement Project. On March 13, 2024, the ESJGWA Board of Directors approved entering into a Memorandum of Understanding (MOU) with San Joaquin County for the ARPA funds.

Key elements of the proposed Project include project management, site selection, permitting, design, environmental clearance, easement acquisition, drilling, well logging, equipment acquisition and installation. The actual locations of monitoring wells to be drilled or instrumented will be selected based on identified data gaps listed in the 2025 ESJ GSP 5-year Update. Any funds unspent by December 31, 2026 must be returned to San Joaquin County.

The ESJGWA Board of Directors has appropriated \$925,000 in Fiscal Year (FY) 2024-2025 with the intent to appropriate the remainder in FY 2025-2026. A portion of the ARPA funding is reserved for staff time to manage consultants and for direct costs related to permitting, access, mitigation, equipment, hardware & software, etc.

2 Submittal Requirements

Consultants interested in being qualified for the On-call list are required to submit a Statement of Qualifications which includes elements in the format prescribed below. The ESJGWA will rank qualified consultants based on the following criteria: relevant technical experience, knowledge of local issues and conditions, and pertinent professional certifications and credentials. Costs for preparing and submitting a Statement of Qualifications (SOQ) are entirely the responsibility of the firm and shall not be charged to the ESJGWA, nor any of its Member GSAs.

2.1 Statement of Qualifications Cover Letter and Page Limits:

The preferred format of consultant's Statement of Qualifications submission is a cover letter addressed to Brandon W. Nakagawa, Water Resources Coordinator, South San Joaquin Irrigation District, brandon.nakagawa@ssjid.gov. The cover letter **may not exceed six (6) single-sided standard sized (8 ½" by 11") pages**. The page limit does not apply to any attachments, table of contents, cover pages or resumes of key personnel within the Appendices.

2.2 Cover Letter Submittal Contents

2.2.1 Summary

Provide a brief summary of the firm's SOQ submission contents, emphasizing qualifications and capabilities of the consultant. The summary should indicate an understanding of the Sustainable Groundwater Management Act (SGMA), relevant work experience within the community, relevant capabilities of staff, and related work experience.

2.2.2 Office Location

Please indicate the location(s) of your firm's office(s) from which your staff will stage work. The ESJGWA desires to limit excessive travel time and related travel expenses.

2.2.3 Relevant Technical Experience

Please indicate the qualifications, expertise, and relevant experience of your firm related to well drilling including procuring and directing well drillers, siting monitoring wells, resolving on-site issues with property owners, developing maintenance plans or standard operating procedures (SOP's), developing cost estimates and/or opinions of probable costs, and determining specifications for the procurement of monitoring equipment both for both remote data recording and in-person applications.

Please describe additional general technical capabilities or service such as project management, civil engineering, groundwater modeling, groundwater statistics, hydrogeologic data analysis, and groundwater quality analysis.

2.2.4 Knowledge of Local Issues and Conditions

Please provide some insights into the local area and the challenges faced. Has the consulting firm worked previously in the area? For what GSA and in what capacity? Does the firm also have experience working in the San Joaquin Valley?

2.2.5 Professional Certifications and Credentials

Please provide any pertinent licenses or certifications of key personnel such as professional registrations, or other pertinent certifications, certificates, or credentials.

2.2.6 Signature and Contact Information

The cover letter shall be signed by the firm's Project Manager and an official authorized to negotiate and contractually bind the firm to perform the requested services. The Project Manager shall be the main contact with the ESJGWA for technical and contractually related issues and shall be responsible for the direction of day-to-day progress on specific project assignments. Please provide the telephone number, email, and office location of the Project Manager.

By signing the cover letter, the firm understands that all submittals attached thereto are a matter of public record and subject to disclosure. The firm also consents to ESJGWA staff contacting agency or client references provided by client for reference projects.

2.2.7 Appendices (Does not Count towards page limit):

2.2.7.1 *Debarment and Suspension Certification*

Firms are required to submit Exhibit A: Debarment and Suspension Certification (see attached).

2.2.7.2 *Resumes of Key Personnel*

A brief resume for each of the proposed key personnel focusing on relevant experience and proposed role. A graphic depicting the team structure, role of key individuals, and area of expertise is desirable.

2.2.7.3 *Reference Projects*

A list of similar reference projects that the proposed key personnel have completed in the last five years. Include only projects for which proposed key personnel played a key role. Firms are encouraged to list agency or client contacts as references for projects.

2.2.8 Other Required Submittals

2.2.8.1 *Conflict of Interest*

Firms shall disclose any financial, business or other relationships with the any Members of the ESJGWA, its agents or employees. A potential conflict of interest may include existing agreements or contracts with Members. An existing agreement may not automatically constitute a conflict of interest or a competitive advantage. The Firm should also list current clients who may have a financial interest in the outcome of the Project.

2.2.8.2 *Insurance*

As required by the ESJGWA:

- a) *General Liability Insurance* on an occurrence-based policy, including contractual liability with a combined single limit in the minimum amount of \$2,000,000; and
- b) *Automobile Liability Insurance* with a combined single limit in the minimum amount of \$1,000,000; and
- c) *Professional Liability Insurance* on an occurrence-based policy with an aggregate limit in the minimum amount of \$1,000,000; and,
- d) *Workers' Compensation Insurance* as required by law; and,

- e) Listing San Joaquin County as additionally insured on the insurance certificate.

2.2.8.3 Schedule of Rates and Fees

Only the highest-ranking firms will be asked to provide a Schedule of Rates and Fees prior to entering into consultant agreement negotiations. Prior to issuing task orders, the ESJGWA will require packaged proposals with a not-to-exceed cost based on fully loaded hourly rates for staff, estimates of direct costs, sub-contracts, etc. The ESJGWA does not allow any markup on subconsultants or direct costs.

2.2.9 Submitting and Statement of Qualifications

Responses must be received by PUBLIC WORKS no later than **4:00 p.m. on Friday, October 25, 2024**. SOQs received after this time will be rejected. A response constitutes a single PDF file containing the signed response as outlined above.

Responses should be sent via email to:

Brandon W. Nakagawa, P.E.
Water Resources Coordinator
South San Joaquin Irrigation District
Staff to the ESJGWA
brandon.nakagawa@ssjid.gov

2.2.10 Submitting Questions

General and technical questions regarding this RFQ may be directed to Brandon Nakagawa, SSJID Water Resources Coordinator, via email at brandon.nakagawa@ssjid.gov.

2.2.11 Selection Schedule

The ESJGWA will endeavor to follow the consultant selection schedule listed below:

Release Request for Qualifications	Friday, September 13, 2024
Written Questions Submitted	Monday, September 30, 2024
Release Response to Written Questions.....	Friday, October 4, 2024
Statement of Qualifications Due	Friday, October 25, by 4:00 p.m.
Notify Consultants of Final On-call List	Thursday, December 5, 2024

Once the final on-Call List is established ESJGWA staff will initiate the negotiation of discrete proposals for work identified on the ESJGWA’s annual work plan and ARPA funded projects. Selection of On-call consultants will be based on a firm’s capabilities, experience and expertise, and availability to perform the work.

2.2.12 Evaluation Process

ESJGWA staff will review the firm's submittals for completeness, responsiveness, clarity, and content. Each submittal will be reviewed to determine if it meets the proposal requirements contained in Section 2 Cover Letter Submittal Contents. Staff may find the submittal "unresponsive" and reject any submittal if incomplete or contains irregularities. The ESJGWA will then assemble a selection committee which will evaluate firm submittals. The evaluation of the written qualifications will be based on the criteria shown in Attachment B.

Aside from the evaluation process described herein, firms or their representatives are strictly prohibited from attempting to influence the outcome of the selection by contacting selection committee members, elected officials, County staff, or other individuals and entities involved in the process of selecting the firm.

*****Any such attempt to influence selection outside of the prescribed process will be grounds for disqualification.*****

**TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29
DEBARMENT AND SUSPENSION CERTIFICATION**

The prime consulting firm certifies, except as noted below, that no person, serving the firm in the capacity of owner, partner, director, officer, manager:

- Is currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency?
- Has been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years?
- Has a proposed debarment pending?
- Has been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years?

If there are any exceptions to this certification, note the exceptions in the following space, indicating to whom it applies, the initiating agency, and dates of action.

Exceptions will not necessarily result in disqualification, but will be considered in determining firm's eligibility for certain tasks.

Signature

Date

Consulting Firm Name

QUALIFICATIONS EVALUATION WORKSHEET

Firm _____

WRITTEN QUALIFICATIONS	Weight	Score (0-10)	Weighted Score
A. Firm Profile and Overall Capabilities	3.0		
B. Key Personnel	3.0		
C. Similar Reference Projects	3.0		
D. Knowledge of Local Conditions & Concerns	1.0		

TOTAL SCORE (100 POINT MAXIMUM) _____

EVALUATOR _____ DATE _____

**ARPA Funding MOU
Between San Joaquin County and the Eastern San Joaquin Groundwater Authority**



**MEMORANDUM OF UNDERSTANDING
BETWEEN
SAN JOAQUIN COUNTY
AND
EASTERN SAN JOAQUIN GROUNDWATER AUTHORITY**

MOU ID: B-24-

Funding Amount Approved - \$2,104,000

PARTIES:	COUNTY:	County of San Joaquin General Services Director 44 N. San Joaquin Street, Suite 590 Stockton, CA 95202 Contact: Jerome C. Wilverding Phone: (209) 468-3203 Email: ARPAfunds@sjgov.org
	ORGANIZATION:	Eastern San Joaquin Groundwater Authority 1810 E. Hazelton Ave. Stockton, CA 95205 Contact: Fritz Buchman, Secretary Phone: (209) 468-3100 Email: fbuchman@sjgov.org

This Memorandum of Understanding ("MOU") is made and entered into this 6th day of March, 2024, by and between the Eastern San Joaquin Groundwater Authority, a joint powers agency acting pursuant to Government Code Section 6500 et seq. ("GWA" or "ORGANIZATION"), and San Joaquin County, a political subdivision of the State of California, through its County Administrator ("COUNTY").

RECITALS

The Sustainable Groundwater Management Act (SGMA) was enacted by the State in 2014. SGMA requires agencies to form Groundwater Sustainability Agencies (GSAs); develop Groundwater Sustainability Plans (GSPs); define interim milestones and performance measures; and implement project management actions to achieve sustainability. The Eastern San Joaquin Groundwater Authority (GWA) was formed on February 8, 2017 through execution of a Joint Exercise of Powers Agreement between 16 GSAs located within the Eastern San Joaquin Subbasin. Management actions identified by the GWA to implement the GSP include: (i) identification and correction of data gaps; (ii) development of monitoring wells to track and understand surface and groundwater interactions; and (iii) equip wells with instrumentation to improve data collection at key monitoring locations. To address these requirements, the GWA proposes a Project that will involve design and construction of the following:

- Five shallow monitoring wells;
- Two nested Delta wells to track salt migration; and
- Up to six additional wells, including installation of monitoring hardware at key locations.

COUNTY and ORGANIZATION mutually desire to enter this MOU to memorialize the rights, duties, and obligations of each toward the other in connection with the services that the ORGANIZATION will provide to and for the benefit of the COUNTY in connection with the award of the above-referenced funds.

Eastern San Joaquin Groundwater Authority

Project: Groundwater Monitoring Improvement Project

Key elements and estimated costs of the proposed Groundwater Monitoring Improvement Project include project management, site selection, permitting, design, environmental clearance, easement acquisition, drilling, well logging, equipment acquisition and installation. A general breakdown of estimated project costs is shown in the following table:

Project Management	\$120,000
Preliminary Engineering	\$103,000
Construction	\$1,600,000
Instrumentation	\$91,000
Contingency	\$190,000
Total	\$2,104,000

NOW, THEREFORE, COUNTY and ORGANIZATION do hereby mutually agree as follows:

I. PURPOSE OF THE MOU

On July 11, 2023, the COUNTY Board of Supervisors approved an award of \$2,104,000 as requested by the ORGANIZATION.

Per the guidance provided by the U.S. Department of the Treasury in its Interim Final Rule, eligible uses of ARPA funds include investments and improvements to existing sewer and water infrastructure.

The purpose of this MOU is to memorialize the use of funding to be provided to the ORGANIZATION pursuant to COUNTY Board Order B-23-382 (Exhibit 1), approved on July 11, 2023, for the Project described in the Recital, above.

II. ORDER OF PRECEDENCE

Each of the items listed below is incorporated into this MOU by reference. In the event of any inconsistency in this MOU, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable federal and State of California statutes and regulations.
2. This MOU and its exhibits:

Exhibit 1: Board Order B-23-382

Exhibit 2: Request for Funds form

III. SCOPE OF SERVICES

ORGANIZATION agrees to procure services in accordance with Section IV.D below to implement Groundwater Monitoring Improvements and shall utilize the COUNTY funding described herein for the Project described in the Recitals, above.

ORGANIZATION shall contract services and work in accordance with ORGANIZATION'S Joint Powers Agreement, as amended, its procedures, and all other applicable state and federal laws. .

IV. GENERAL PROVISIONS

A. Term of Agreement:

This Agreement shall commence on the date of execution through the 31st day of December 2026, unless said work is completed on a date prior thereto or unless terminated earlier as provided herein or extended upon mutual agreement.

B. Interpretation

This MOU shall not be interpreted in favor of any Party by virtue of said Party not having prepared this MOU.

If any time period provided for in this MOU ends on the day other than a Business Day, the time period shall be extended to the next Business Day.

C. Compensation:

1. COUNTY agrees to pay the ORGANIZATION the sum of TWO MILLION ONE HUNDRED FOUR THOUSAND DOLLARS (\$2,104,000) for implementation of the Groundwater Monitoring Improvement Project as described in Sections I-III above. Payments shall be made in one installment. The payment covers the Groundwater Monitoring Improvement Project:
 - a) Payment of the full amount of \$2,104,000 shall be paid within 30 days of the signed "Request for Funds" form (Exhibit 2).
 - b) Copies of all supporting documents for Project (including, but not limited to, contractor/concessionaire quotes, agreements, invoices and purchase receipts) shall be submitted by ORGANIZATION to COUNTY no later than December 31, 2026, via email to ARPAfunds@sjgov.org.
 - c) Any funds paid to ORGANIZATION pursuant to this MOU that are not used for the approved Project by December 31, 2026, shall be returned to COUNTY no later than January 15, 2027.
2. COUNTY shall monitor the ORGANIZATION'S performance periodically throughout the term of this MOU, including reconciliation of payments to actual cost, to ensure that the program is achieving satisfactory performance in relation to the objectives as stated in the Request for Funds.
3. ORGANIZATION agrees to maintain all program, fiscal, statistical, and management records and make such records available for inspection by COUNTY representatives upon request as described below. The records to be kept and maintained in connection with this MOU shall include any and all costs associated with the Project. Failure to promptly comply with any COUNTY request for records and/or inspection pursuant to this Section IV shall constitute a breach of this MOU.
4. ORGANIZATION agrees to maintain all records pertaining to design, construction, fiscal and administrative controls for a minimum of seven (7) years after final payment has been made or until all pending County, State, and Federal audits are completed, whichever is later.

Upon request, the ORGANIZATION shall make these records available to the COUNTY to all authorized County personnel within three (3) working days of the request for such records.
5. ORGANIZATION shall account for all the expenditures paid by the COUNTY under this MOU and agrees their financial records shall contain itemized records of all costs related to this MOU. The ORGANIZATION agrees to follow Generally Accepted Accounting Principles (GAAP) to support COUNTY paid expenditures.
6. Total payments under this MOU shall not exceed TWO MILLION ONE HUNDRED FOUR THOUSAND DOLLARS (\$2,104,000) for the term of this MOU, as set forth in Section IV(A), above.

D. Sub-Recipients

1. **Definition:** A SUB-RECIPIENT is a person or entity who has a direct contract with ORGANIZATION to perform a portion of the Project.
2. **Award of SUB-RECIPIENT Agreement and other Agreements for portions of the Project:** ORGANIZATION, as soon as practicable after payment of funds from COUNTY for implementation of the Groundwater Monitoring Improvement Project as described in Sections I-III above, shall furnish in writing to COUNTY the names of persons or entities proposed for each portion of the Project.
3. **SUB-RECIPIENT Relations:**
 - i. By appropriate agreement, written where legally required, ORGANIZATION shall require each SUB-RECIPIENT, to the extent of the portion of the Project to be performed by the SUB-RECIPIENT, to be bound to the ORGANIZATION by the terms of this MOU, and to assume toward the ORGANIZATION all the obligations and responsibilities, including indemnity. Each sub-recipient agreement shall preserve and protect the rights of the COUNTY under this MOU with respect to the portion of the Project to be performed by the SUB-RECIPIENT. Where appropriate, the ORGANIZATION shall require each SUB-RECIPIENT to enter into similar agreements with Sub-SUBRECIPIENTS.
 - ii. All work on portions of the Project performed for ORGANIZATION by a SUB-RECIPIENT shall be pursuant to a master form of written agreement between ORGANIZATION and SUB-RECIPIENT (and where appropriate between SUB-RECIPIENTS and SUB-SUBRECIPIENTS) and shall contain provisions that:
 1. Provide that COUNTY is an express third party beneficiary of the SUB-RECIPIENT agreement, and preserve and protect the rights of COUNTY under this MOU with respect to the portion of the Project to be performed under the SUB-RECIPIENT agreement;
 2. Require that the portion of the Project be performed in accordance with the requirements of this MOU;
 3. Require SUB-RECIPIENT to carry and maintain the insurance required described in Paragraph G of this MOU.
 4. Include provision substantially similar to Paragraph F where SUB-RECIPIENT agrees to indemnify ORGANIZATION and COUNTY to the fullest extent allowable by law as described in this MOU.

E. Invoicing:

ORGANIZATION shall submit invoice(s) to the County of San Joaquin Administrator's Office, via email to ARPAfunds@sjgov.org. All invoices must reference MOU ID #CAO-24-XXX and the Project design and construction fees paid.

F. Indemnification:

ORGANIZATION, or SUB-RECIPIENT, whichever actually performs the work required for the portion of the Project, shall, at its expense, defend, indemnify and hold harmless the COUNTY, and the ORGANIZATION if SUB-RECIPIENT performs work on portion of Project, and its employees, officers, directors, contractors, and agents from and against any losses, liabilities, damages, penalties, costs, fees, including without limitation reasonable attorneys' fees, and expenses from any claim or action, including, without limitation for bodily injury or death, arising from or pertaining to the subject matter of this MOU.

ORGANIZATION, or SUB-RECIPIENT, whichever actually performs the work required for the portion of the Project, shall hold the COUNTY, and the ORGANIZATION if SUB-RECIPIENT performs work on portion of Project, its officers, and employees, harmless from liability, of any nature or kind on account of the use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention articles or appliance furnished or used under this order.

G. Insurance:

ORGANIZATION, or SUB-RECIPIENT, whichever actually performs the work required for the portion of the Project, shall obtain and maintain continuously in effect at all times during the term of this MOU, at ORGANIZATION'S, or SUB-RECIPIENT'S sole expense, general liability insurance protecting COUNTY, and the ORGANIZATION if SUB-RECIPIENT performs work on portion of Project, its officers, employees and agents against liability which may accrue against COUNTY by reason of ORGANIZATION'S use of funds pursuant to this MOU. Such insurance must be in the amount of not less than One Million Dollars (\$1,000,000) combined single limits coverage for personal injury, death, or property damage, and shall name the COUNTY, and the ORGANIZATION if SUB-RECIPIENT performs work on portion of Project, and its agents as coinsured thereunder. In addition, the policy shall provide for a thirty (30) day notice to the COUNTY prior to cancellation or material change of the policy. ORGANIZATION shall promptly supply the COUNTY with a certificate of insurance evidencing compliance with the above requirements.

ORGANIZATION'S, or SUB-RECIPIENT, whichever actually performs the work required for the portion of the Project, employees, contractors and concessionaires shall be fully and adequately covered by Worker's Compensation Insurance, as required by law, and shall submit to the COUNTY a certificate of insurance evidencing compliance with such insurance requirements upon execution of this agreement. ORGANIZATION, or SUB-RECIPIENT, whichever actually performs the work required for the portion of the Project, shall not commence or continue operations on the Premises without the required Worker's Compensation Insurance being in force.

H. Notices:

Any notice required to be given pursuant to the terms and conditions hereof shall be in writing and shall be effected by one of the following methods: personal delivery, prepaid Certified First-Class Mail, or prepaid Priority Mail with delivery confirmation. Unless otherwise designated in writing by either party, such notice shall be mailed to the addresses shown on page one (1) of this MOU.

I. Termination:

1. **Termination for Cause:** If the ORGANIZATION breaches or habitually neglects its duties under this MOU without curing such breach or neglect upon fifteen (15) working days written notice, the COUNTY may, by written notice, immediately terminate this MOU without prejudice to any other remedy to which the COUNTY may be entitled, either at law, in equity, or under this MOU.
2. **Termination for Convenience:** In addition, the COUNTY may terminate this MOU upon forty-five (45) days written notice to the other party. In the event of such termination, and in accordance with Section IV.C, ORGANIZATION shall only be obligated to return any funds not awarded, as described in Section IV.D, to a SUB-RECIPIENT or other person or entity to perform work for the relevant portion of the approved Project.

J. Conflict of Interest Statement:

ORGANIZATION covenants that the ORGANIZATION, its officers, employees, or their immediate family, presently has no interest, including, but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this MOU. ORGANIZATION further covenants that in the performance of this MOU no person having any such interest shall be employed or retained by the ORGANIZATION under this MOU. ORGANIZATION and COUNTY acknowledge that County staff presently provide services to ORGANIZATION as part of their existing job duties for the COUNTY and this provision does not apply to the performance of said services.

K. Force Majeure:

It is agreed that neither party shall be responsible for delays in delivery, acceptance of delivery, or failure to perform when such delay or failure is attributable to Acts of God, war, strikes, riots, lockouts, accidents, rules, or regulations of any governmental agencies or other matters or conditions beyond the control of either the ORGANIZATION or the COUNTY.

L. Compliance:

ORGANIZATION shall comply with all Federal, State, and local laws, regulations, and requirements necessary for the provision of work and services. Furthermore, the ORGANIZATION shall comply with all laws applicable to wages and hours of employment, occupational safety, fire safety, health, and sanitation, including, but not limited to, payment of prevailing wage pursuant to California law. ORGANIZATION shall maintain the current throughout the life of this MOU, all permits, licenses, certificates, and insurances that are necessary for the provision of contracted services.

M. Disputes and Remedies:

1. At the COUNTY's sole discretion, COUNTY may elect to raise a dispute, claim, or breach by submitting it, in writing, to ORGANIZATION. Such dispute, claim, or breach would include conditions and time constraints required of ORGANIZATION to remedy.

2. Neither the pendency of a dispute, claim, or breach nor its consideration will excuse the parties from full and timely performance in accordance with terms of this MOU.
3. Any legal action or proceeding with respect to this MOU shall be brought in the courts of the State of California for the County of San Joaquin, or the courts of the United States of America for the Eastern District of California, and in no other courts. ORGANIZATION hereby accepts such jurisdiction and venue and generally and unconditionally waives any objection, including, without limitation, any objection to the laying of venue or based on the grounds of forum non-convenient. The provision of this paragraph shall survive the expiration or other termination of this MOU regardless of the cause of such termination.
4. In any action brought by a party to enforce the terms of this MOU, the prevailing party shall be entitled to reasonable attorney's fees and costs, including the reasonable value of any services provided by in-house counsel. The reasonable value of services provided by either party's counsel shall be capped at the hourly rate charged by Deputy County Counsel IV attorneys in the office of the County Counsel of San Joaquin County, California.

N. Documents:

All drawings, specifications, documents, and other memoranda or writings relating to the work and services hereunder shall remain or become the property of the COUNTY whether executed by or for the ORGANIZATION for the COUNTY, or otherwise by or for the ORGANIZATION, or by or for a subcontractor or SUB-RECIPIENT operating under the ORGANIZATION'S supervision, or direction, and all such documents and copies thereof shall be returned or transmitted to the COUNTY forthwith upon the COUNTY written demand, termination or completion of the work under this MOU.

O. Entire MOU and Modification:


This MOU and all documents incorporated by reference herein supersede all previous agreements between the Parties hereto, either oral or written, and constitute the entire understanding of the Parties with respect to the subject matter described herein. No changes, amendments, or alterations shall be effective unless in writing and signed by both Parties.

If any term of the MOU is found to be illegal, invalid, or unenforceable under applicable law, such term shall be excluded to the extent of such illegality, invalidity, or unenforceability; all other terms of this MOU shall remain in full force and effect; and, to the extent permitted and possible, the illegal, invalid or unenforceable term shall be replaced by a term that is legal, valid and enforceable and that comes closest to expressing the intention of such illegal, invalid or unenforceable term.

IN WITNESS WHEREOF, COUNTY and ORGANIZATION have executed this MOU effective on the day and year first written above.

Eastern San Joaquin Groundwater Authority
1810 E. Hazelton Ave.
Stockton, CA 95205

COUNTY OF SAN JOAQUIN, a
political subdivision of
the State of California

By: 
Fritz Buchman
Secretary
ESJ Groundwater Authority


By: 
Jerome C. Wilverding
County Administrator

Date: 

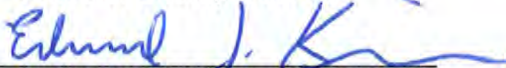
Date: 

APPROVED AS TO FORM

Neumiller & Beardslee

By: 
Tom Terpstra
General Counsel, ESJ GWA

Office of County Counsel

By: 
Edward J. Kiernan
County Counsel