# AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN THE LASSEN COUNTY BIG VALLEY GROUNDWATER BASIN SUSTAINABILITY AGENCY AND THE MODOC COUNTY BIG VALLEY GROUNDWATER BASIN GROUNDWATER SUSTAINABILITY AGENCY

This Amended and Restated Memorandum of Understanding, dated as of _____, 2022 (MOU), is entered into by and between the Lassen County Big Valley Groundwater Basin Groundwater Sustainability Agency and the Modoc County Big Valley Groundwater Basin Groundwater Sustainability Agency for the purpose of advising the Lassen and Modoc groundwater sustainability agencies during the development and implementation of the Groundwater Sustainability Plan (GSP) required under the 2014 Sustainable Groundwater Management Act for the Big Valley Groundwater Basin.

WHEREAS, the Lassen County Big Valley Groundwater Basin Groundwater Sustainability Agency (GSA) and the Modoc County Big Valley Groundwater Basin Groundwater Sustainability Agency entered into a Memorandum of Understanding, approved by the Modoc GSA on May 21, 2019, and approved by the Lassen GSA on June 11, 2019 (Existing Memorandum of Understanding); and

WHEREAS, the primary purpose of the Existing Memorandum of Understanding was to form an advisory committee to advise both GSAs on the development of a Groundwater Sustainability Plan (GSP) for the Big Valley Groundwater Basin; and

WHEREAS, the Big Valley Groundwater Basin Advisory Committee (BVAC) was instrumental in the development of the Big Valley Groundwater Basin GSP, which was approved by both GSAs on December 15, 2021; and

WHEREAS, the GSAs understand and agree that the BVAC can be of continued value to the GSAs and the public to assist in the implementation of said GSP; and

WHEREAS, it is understood that the GSAs and their staff will have to work cooperatively to successfully implement the adopted GSP; and

WHEREAS, this MOU replaces the Existing Memorandum of Understanding in its entirety.

NOW, THEREFORE, the parties hereto agree to amend the Existing Memorandum of Understanding in its entirety as follows:

## 1. Background

The Sustainable Groundwater Management Act (SGMA or Act) became effective January 1, 2015, and is codified as Part 2.74 of the California Water Code (Section 10720, et seq.). The regulations adopted to enforce the provisions of the Act are found in Section 350, et seq., Division 2, Chapter 1 .5, Subchapter 2 of Title 23 of the California Code of Regulations.

This MOU pertains to the Big Valley Groundwater Basin (BVGB), which was inaccurately designated as a "medium priority" basin by the California Department of Water Resources (DWR). This designation as a medium priority basin requires preparation of a GSP under the Act.

The SGMA was created to ensure groundwater basins throughout the state are managed to reliably meet the needs of all users, while mitigating changes in the quality and quantity of groundwater. The intent of the Act, as described in section 10720.1 of the Water Code, is to:

- Provide for the sustainable management of groundwater basins.
- Enhance local management of groundwater consistent with rights to use or store groundwater.
- Establish minimum standards for sustainable groundwater management.
- Provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater.
- Avoid or minimize subsidence.
- Improve data collection and understanding about groundwater.
- Increase groundwater storage and remove impediments to recharge.
- Manage groundwater basins through the action of local governmental agencies to the greatest extent feasible, while minimizing state intervention to only when necessary to ensure that local agencies manage groundwater in a sustainable manner.
- Provide a more efficient and cost-effective groundwater adjudication process that protects water rights, ensures due process, prevents unnecessary delay, and furthers the objectives of the Act.

The role of the GSA is to create a GSP, and then to implement and enforce that plan. The plan must include measurable objectives that can be used to demonstrate the basin is sustainably managed within twenty (20) years of implementation.

Absent a qualified planning process which produces a GSP, the State Water Resources Control Board (State Board) is authorized to declare that the Basin is out of compliance and, thereby, they will intervene and place the Basin on probation with regard to SGMA.

The Lassen and Modoc County Board of Supervisors have adopted resolutions (17-013 and 2017-09, respectively) declaring themselves to be the Groundwater Sustainability Agency (GSA) for the portion of the Big Valley Groundwater Basin within their respective jurisdictions. No other agency pursued GSA status and, therefore, Lassen and Modoc Counties were awarded

exclusive GSA status by DWR for the portion of the Big Valley Groundwater Basin within their respective jurisdictions.

Lassen and Modoc Counties (as the GSA for the portion of the Basin in their jurisdiction) worked cooperatively and prepared one GSP for the entire Big Valley Groundwater Basin. Said GSP was adopted by both GSAs on December 15, 2021, and subsequently submitted to DWR. In turn, both Counties intend to work cooperatively in the implementation of said GSP.

Lassen County was awarded a grant (Grant Number 46000 12669) to provide funding for the preparation of a GSP for the Big Valley Groundwater Basin. All requirements of said grant have been satisfied.

**2. Purpose**

The purpose of this MOU is to:

a. Establish the BVAC and its responsibilities.
b. Establish the membership of the BVAC.
c. Describe how meetings of the BVAC will be conducted and how information, findings, conclusions, decisions, etc. of the BVAC will be conveyed to the Lassen County Groundwater Sustainability Agency and to the Modoc County Groundwater Sustainability Agency.
d. Advise both Lassen and Modoc counties (as the respective GSAs for the portion of the groundwater basin in their respective jurisdictions) on the implementation of the GSP. This includes, but is not limited to, making recommendations regarding the annual reports, five-year updates and project implementation detailed in the GSP as required by the SGMA.
e. Provide additional detail regarding the shared responsibility of the two GSAs to implement the adopted GSP.
f. Provide additional direction to staff of the two GSAs on actions necessary to implement the GSP and to comply with SGMA.
g. Describe terms for the sharing of costs necessary to implement the GSP and to meet future requirements of SGMA.

**3. Goals of the BVAC are as follows:**

a. Work collaboratively and transparently with other members to identify common goals, foster mutual understanding, and develop and implement a GSP that all members and their constituents can live with and support;
b. Develop a common understanding of existing groundwater resources, including groundwater dependent habitats, public trust resources and the current and future needs of all beneficial uses and users in the Big Valley Groundwater Basin, as well as current and future water needs;

c. Solicit and incorporate community and stakeholder interests into committee discussions and emerging committee agreements in order to develop and implement a locally-informed and broadly supported GSP;
d. Consider and integrate science, to the best of its ability and with support from qualified scientific consultants, during GSP development and implementation;
e. Support implementation efforts guided by GSP goals to use, monitor, and manage water resources in a sustainable manner, ensure local control, address current and future local water needs, support the agricultural economy in Adin, Bieber, Nubieber, Lookout, and outlying communities, and support tourism and fish and wildlife habitat in the Basin;
f. Negotiate in good faith to achieve consensus on management of groundwater resources in the Big Valley Groundwater Basin now and into the future;
g. Advise the Lassen and Modoc GSAs on the preparation and implementation of a GSP;
h. Provide a forum for the public to comment during the preparation and implementation of the GSP;
i. Provide recommendations to the Lassen and Modoc GSAs that would result in actions which have as minimal negative impact as possible on the residents of Big Valley Groundwater Basin;
j. Advise the Lassen and Modoc GSAs on the preparation and implementation of a GSP to produce the lowest possible fixed costs to the residents of Big Valley;
k. Ensure local control of the Big Valley Groundwater Basin be maintained by the Lassen and Modoc GSAs; and
l. Advise the GSAs on the implementation of the GSP, as provided in this MOU.

As a standing committee of the Lassen and Modoc GSA's, the BVAC will operate in compliance with the Ralph M. Brown Act (Brown Act). Committee meetings will be noticed and agendas posted according to the Brown Act. All meetings will be open to the public and allow public comment. Speakers will generally be limited to three minutes, but time may be adjusted based upon meeting circumstances. As needed, the Chair may place time limits on public comments to ensure that the committee is reasonably able to address all agenda items during the course of a meeting. The Lassen GSA will announce committee meetings on its website and through its regular communication channels. Recommendations and advice from the committee will be presented to the Lassen and Modoc GSA's through their staff.

**4. BVAC Membership Composition**

1. One (l) member of the Lassen County Board of Supervisors selected by said Board.
2. One (I) alternate member of the Lassen County Board of Supervisors selected by said Board
3. One (1) member of the Modoc County Board of Supervisors selected by said Board.
4. One (l) alternate member of the Modoc County Board of Supervisors selected by said Board
5. Two (2) public members selected by the Lassen County Board of Supervisors. Said members must either reside or own property within the Lassen County portion of the Big Valley Groundwater Basin.

6. Two (2) public members selected by the Modoc County Board of Supervisors. Said members must either reside or own property within the Modoc County portion of the Big Valley Groundwater Basin.

**Member vacancies**
If a vacancy occurs, the respective GSA will select a new committee member. Applications or letter of intent for all members of the committee must be kept on file with the respective GSA. An appointing GSA must notify the other GSA in writing if a member of the BVAC has been replaced.

**Committee Member Terms**

- Committee members shall serve four (4) year terms, starting from the date of their appointment. If any committee member decides, for any reason, to terminate his or her role, he/she will notify GSA staff as soon as possible after making such a determination. Committee members interested in serving beyond four (4) years must re-apply through the GSA's application process.
- The chair and vice-chair will serve a one (1) year term. At the end of the term of a chair or vice-chair, the committee will use its decision-making procedures to nominate and confirm a new chair and vice-chair. Any interested chair or vice chair may be nominated for a second term; however, no chair or vice-chair shall serve more than two (2) consecutive terms.

**5. BVAC Roles and Responsibilities**
This section describes roles and responsibilities that the Big Valley Advisory Committee Members commit to during development and implementation of the Big Valley Groundwater Basin GSP.

**GSAs**
The Lassen and Modoc GSAs are the final decision makers in the GSP process. The GSA's will:

- Provide guidance, evaluation and feedback that directs GSA staff and Advisory Committee members to build and implement an effective GSP;
- Work collaboratively with GSA staff, Advisory Committee members, consultants, and constituents;
- Receive, evaluate, and decide on all GSP and SGMA related actions that come in the form of advice and recommendations from the Big Valley Advisory Committee;
- Welcome feedback that pertains to the GSP from all diverse stakeholder interests in the Basin; and
- Serve as a representative for the Basin, making decisions in the best interest of achieving and maintaining long-term groundwater sustainability for all beneficial uses and users in the Basin.

**Advisory Committee Members**

Members of the Advisory Committee ("members") collectively represent the diversity of beneficial groundwater uses and users in the Big Valley Groundwater Basin. Committee members commit to:

- Serve as strong, effective advocates and educators for the interests of the group (constituency) that they represent;
- Nominate and confirm a committee chair and vice chair every year;
- Arrive at each meeting fully prepared to discuss all agenda items and relevant issues; including, but not limited to, reviewing previous meeting summaries, drafts and final GSP chapters, and other information distributed in advance of each meeting;
- Use an innovative problem-solving approach in which the interests and viewpoints of all members are considered;
- Explore all options to resolve disagreements, including, as needed, one-on-one discussions with GSA staff, or, at Advisory Committee meetings, interest-based caucuses or small group discussions;
- Act as liaisons throughout the GSP development and implementation process to educate, inform and solicit input from the wider local community and interested constituencies;
- Present constituent views on the issues being discussed and commit to engage in civil, respectful, and constructive dialogue with other members, as well as GSA staff, technical team members, and meeting facilitators;
- Ensure accuracy of information dissemination during or outside meetings, and correct false information as needed or appropriate;
- Avoid representing individual viewpoints as those of the committee and respect confidential conversations;
- Work collaboratively to ensure broad constituent understanding and support for any advice and recommendations that the committee shares with the Lassen and Modoc GSA Boards;
- Coordinate with Lassen and Modoc GSA staff regarding recommendations for any additional committee tasks that should be undertaken by the committee, and which items shall be presented to the GSA Boards for its review and approval;
- Operate at all times in compliance with the Brown Act;
- Attend meetings consistently - participation in 75% of the meetings is the minimum expectation. (*Given the volume of information to be considered and discussed, it is essential that members actively participate in committee meetings on a consistent basis. It is understood that professional and personal commitments may at times prevent members from attending committee meetings. In such cases, members shall notify both Lassen and Modoc GSA staff no less than 24 hours in advance to be excused from attending any given committee meeting. As needed, staff will reach out to members who are not actively participating in at least 75% of the meetings to give them the opportunity to explain their absences and reaffirm their interest to participate on the committee, and thus not lose their seat. Members who do not meet the threshold for active participation, and have not expressed an interest to continue*

*participating, will be removed from the committee and replaced by the applicable GSA Board from the committee. Alternates selected by the applicable GSA Board may attend in the absence of a committee member, but must alert the Lassen and Modoc GSA staff prior to the meeting.*); and

- Recuse him/herself from discussion and voting if he/she has a personal interest or stake in the outcome which constitutes a conflict of interest (as that term is defined by the Political Reform Act and in accordance with Government Code Title 9, Political Reform; Chapter 7, Conflicts of Interest).

Through its public meetings, the committee meetings shall serve as a forum for public dialogue on SGMA and GSP development and implementation. With approval by the Lassen and Modoc GSA's, committee tasks may be established, amended, repealed, or added at any time.

Duly appointed alternates may vote on all matters before the BVAC in the absence of the appointed member. Each alternate shall be informed of the business of the BVAC and the actions they are considering and voting for when acting on behalf of a member.

**The following are desired attributes for BVAC members:**

a. Have knowledge and experience in water resources management.
b. Represent an agency, organization, tribe, academia, or interest that is under-represented in the region (e.g., disadvantaged communities or unincorporated areas).
c. Have the ability and desire to objectively articulate the perspective of his/her BVAC seat and caucus at a level beyond that of his/her individual interest.
d. Provide recommendations with the best interests of the entire Big Valley region in mind.

**6. Appointment**

Members of the BVAC shall be appointed by the respective Board of Supervisors acting as the GSA. Members will serve at the pleasure of said Boards and may be terminated at any time without cause. Persons interested in serving on the BVAC shall submit a letter of interest or application to the pertinent Clerk of the Board of Supervisors which includes the following:

a. Current level of SGMA knowledge and experience;
b. Knowledge of groundwater in the Big Valley Groundwater Basin;
c. Their ability to commit to attending meetings of the Advisory Committee; and
d. Demonstrated ability to work collaboratively with others of differing viewpoints and achieve good faith compromise.

**7. BVAC Chair and Vice Chair Roles**

The BVAC Chair and Vice Chair must be BVAC members. The Chair and Vice Chair will be determined by a majority vote of the BVAC.

Although not required, the following attributes are desirable for the Chair and Vice Chair:

- Chair: prior experience working in the role of a Chair of a committee.
- Vice Chair: attributes and ability to assume Chair role and responsibilities, but not necessarily as much experience as the Chair.
- Chair and Vice Chair should come from different GSAs.
- Familiar with the purpose, structure, and content of meetings.
- Willing and able to attend each BVAC meeting.
- Ability to even-handedly articulate all interests.
- Consensus-builder.

The role of the Chair and Vice Chair will vary between BVAC meetings; however, the Vice Chair's primary role is to take on Chair responsibilities in the absence of the Chair and/or at the discretion of the Chair. General responsibilities for the Chair are as follows:

a. Review BVAC agenda prior to finalization and distribution to stakeholders (one week prior to BVAC meetings);
b. Meet with staff prior to each BVAC meeting to go over the BVAC agenda and presentation(s) so that the BVAC meeting runs smoothly and without interruption;
c. Manage the BVAC agenda, select members to speak in turn, and keep the BVAC on task and on time;
d. Convene each BVAC meeting and initiate introductions;
e. Organize and call on public speakers during appropriate agenda items (if applicable) and determine public comment procedures;
f. Identify when the BVAC has reached an impasse and needs to move forward with formal voting to resolve an issue;
g. Summarize key decisions and action items at the end of each BVAC meeting;
h. Close meetings;
i. Ensure that notes are prepared summarizing discussion, agreements, and decisions;
j. Review and provide comments on BVAC meeting notes.

**8. Meetings**

Meetings of the BVAC will be conducted as often as is needed during implementation of the GSP. The BVAC may establish a regular meeting schedule or call each meeting as a special meeting in accordance with the Brown Act. Meetings shall be conducted in accordance with the Brown Act, this MOU, SGMA, and any other applicable rules or regulations.

Meetings shall be noticed in accordance with the Brown Act. The Lassen County Department of Planning and Building Services will coordinate Brown Act noticing and any other noticing that is executed. The Lassen County Department of Planning and Building Services will prepare and disseminate packets in advance of all meetings, as applicable. Said Department shall serve as staff to the BVAC, and be the repository of all associated records, with a copy of all records sent to the Modoc County Clerk of the Board.

The Director of the Lassen County Planning and Building Services Department, or his or her designee, shall serve as Secretary of the BVAC and may comment on any item, but does not have a vote. The designated Modoc County GSA groundwater staff member may comment on any item, but does not have a vote.

Legal counsel shall be provided by the Modoc County Counsel.

Staff from either GSA or the BVAC chair or vice chair may request that a meeting be scheduled, in which case the Secretary shall schedule a meeting accordingly. BVAC members may request that the chair or vice chair provide direction to schedule a meeting. In which case, it shall be at the discretion of the chair or vice chair to provide direction to the Secretary to schedule a meeting.
A quorum is required to convene. Formal voting may not occur without a quorum of BVAC members and the BVAC may not take any action, other than to adjourn the meeting to a future date and time; however, presentations and discussion of agenda topics may occur. A quorum shall be defined as having at least four BVAC representatives present.

**Meeting Location**
All meetings of the Big Valley Groundwater Advisory Committee must be held within the boundary of the Big Valley Groundwater Basin. Lassen GSA staff will work collaboratively with the Chair to determine a location which will encourage the most participation from all stakeholders. Meeting locations shall remain consistent to prevent reduced participation from all stakeholders.

**9. Public Comments at BVAC Meetings**
BVAC meetings are open to the public, and public comments are welcomed and encouraged. To ensure that members of the public have an adequate chance to provide comments, the BVAC Chair will invite public comments by members of the public in attendance on any agenda item in which the BVAC is deciding or formulating a recommendation. An open public comment period will be offered at the end of BVAC meetings to allow members of the public to speak to non-agenda topics.

If there is substantial public interest or comment on a topic, the BVAC Chair or Vice Chair may implement the following procedures to ensure that such comments are received in a timely manner:

- Members of the public will be asked (but not required) to fill out a speaker card to indicate their name, affiliation, contact, and the specific agenda item they wish to speak to (if applicable).
- Speaker cards will be limited to one per person per agenda item. Participants may submit multiple speaker cards to address multiple agenda items.
- The BVAC Chair or Vice Chair will invite those who submitted speaker cards to address the agenda item prior to calling for a consensus decision and/or vote on that item.

- Speaker cards will generally allow three minutes of public speaking time per speaker.
- However, in the event that there are a large number of public speaker comments, it will be up to the discretion of the BVAC Chair or Vice Chair to reduce the time for each public speaker to ensure that all agenda items are addressed and that the BVAC meeting closes on time.

**10. Decision-making Procedures**
In order to hold a meeting and conduct its work, a quorum of the Big Valley GSA Advisory Committee must be present.

a. **Consensus as the Fundamental Principle:** The advisory committee shall strive for consensus (agreement among all participants) in all of its decision-making. Working toward consensus is a fundamental principle which will guide group efforts, particularly when crafting any draft or final advisory committee proposals, reports or recommendations for GSA Boards consideration. If the committee is unable to reach consensus, the range of opinions provided, including areas of agreement and disagreement, will be documented in meeting summaries or otherwise communicated in written reports when advisory committee work is shared with the GSA Boards.

b. **Definition of Consensus:** Consensus means all committee members either fully support or can live with a particular decision and believe that their constituents can as well. In reaching consensus, some committee members may strongly endorse a particular proposal, report or recommendation, while others may simply accept it as "workable." Others may only be able to "live with it" as less than desired but still acceptable. Still others may choose to "stand aside" by verbally noting disagreement, yet allowing the group to reach consensus without them, or by abstaining altogether. Any of these actions constitutes consensus.

c. **Types of Decision-Making:**

1. Administrative: Decisions about the daily administrative activities of the Committee, including, but not limited to, meeting logistics, meeting dates and times, agenda revisions and schedules. Administrative designs will typically be put forward to the group by Lassen County Department of Planning and Building Services staff. As needed, staff will consult with the committee. Any administrative decisions by the committee will be made on a simple majority vote of all members present at a meeting. The committee will defer to the decision-making procedures outlined in this section of the MOU in circumstances where it is unclear if a committee decision is administrative in nature, or represents a more substantive GSP/SGMA decision (described below).

2. Groundwater Sustainability Planning/SGMA Advice and Recommendations: Advice and recommendations regarding implementation of the Big Valley GSP, topics and actions mandated by SGMA, and other groundwater related topics that the committee chooses to address related to the Big Valley Groundwater Basin. All GSP/SGMA

advice and recommendation decisions will be made by the decision-making procedures outlined in this section of the MOU.

3. Consensus with Accountability: Consensus seeking efforts recognize that a convened group such as Big Valley Advisory Committee makes recommendations, but is not a formal decision-making body like the Lassen or Modoc GSAs. That said, achieving consensus is the goal, as this allows all stakeholder interests represented on the committee to communicate a unified group perspective to the GSA Boards as it considers public policy decisions and actions which may affect the constituencies that members represent, and the wider community. Using a model of consensus with accountability, all committee members shall commit to two principles:

   - All members are expected to routinely express their thoughts to ensure they have clarity on how their perspectives and those of others may shift over time.
   - All members shall negotiate agreement in a manner that serves their interests as a representative of the community, and offers either neutral impact to others with differing views, or ideally provides benefit to others' with differing views as well as their own.

   Operating by consensus with accountability will encourage multi-interest solutions based on shared member interests. Such solutions are in turn more sustainable and durable as they represent shared agreements rather than majority/minority dynamics. Most consensus building during the course of GSP development and SGMA implementation will be based on verbal dialogue, deliberation and iterative development of group ideas. The Chair may commonly ask, when it appears consensus or near consensus agreement has emerged or is emerging, if any member cannot live with said agreement. For any final decisions, committee members will demonstrate consensus, or lack thereof, in the following manner:

| | |
|---|---|
| Nay: | I do not support the proposal. |
| Aye: | I support the proposal. |
| Stand Aside: | Member verbally notes he/she is willing to stand aside and allow group consensus. |
| Abstention: | At times, a pending decision may be infeasible for a participant to weigh in on. Member verbally notes he/she abstains. Abstentions do not prevent group consensus. |

   Any member that stands aside or abstains from a decision is encouraged to explain why his/her choice is being made.

d. **Less than 100% Consensus Decision Making:**
The advisory committee is consensus seeking, but shall not limit itself to strict consensus if 100% agreement among all members cannot be reached after all interests and options have been thoroughly identified, explored and discussed. Less-than-consensus decision-making shall not be undertaken lightly. If the committee cannot come to 100% agreement, it could set aside the particular issue while it continues work on other issues, then revisit the disagreement later in the process. Finally, the committee recognizes that certain deadlines must be met during the collaborative process to ensure completion of all SGMA opportunities and requirements on time.

If, after thoroughly exploring all ideas and options, consensus is absent or otherwise not forthcoming, the committee, with assistance from the GSA staff, will clearly document majority and minority viewpoints. The Chair and Vice-Chair will then work with GSA staff to incorporate all viewpoints into the meeting summary, and, as warranted, prepare a committee report to the GSA Boards. The chair, in coordination with GSA staff, will then present the report to the GSA Boards, ensuring that all majority and minority viewpoints are clearly communicated and accurately represent the outcomes of committee discussions. Any committee member holding minority viewpoints will have the opportunity, if he/she is not comfortable with the process, to present his/her viewpoints directly to the GSA Boards at the time the report is presented. Members wishing to do this will express their interest and minority viewpoints with GSA staff in advance of said GSA Board meetings.

e. **Decision Outcomes**: Advisory committee decisions will be made at appropriate meetings and, in accordance with the Brown Act, will be publicly noticed in advance and shared via the Lassen County GSA's website and SGMA interested parties email list. As described above, all committee proposals, reports and recommendations will reflect the outcomes of collaborative member discussions. All consensus agreements and other negotiated outcomes during GSP development and implementation, as well as discussion outcomes when consensus is not forthcoming, will be documented, as described above, and shared with the GSA Boards.

**11. Collaborative Process Agreements and Meeting Ground Rules**
Members commit to the following process agreements during discussion, deliberation and attempts to find consensus-based solutions to sustainable groundwater management in the Big Valley Groundwater Basin. Moreover, members also agree to abide by meeting ground rules in order to intentionally and consistently engage each other in civil and constructive dialogue during the collaborative process.

*Process Agreements*

- Strive to focus on interests versus positions. A focus on interests instead of positions will help reveal the needs, hopes or concerns behind any member's words. By extension, this can help identify shared interests among committee members and, based on those shared interests, multiple options for mutually beneficial agreements.

- Foster mutual understanding and attempt to address the interests and concerns of all participants. For the collaborative process to be successful, all members must seek to understand the interests and concerns of other members, then strive to reach agreements that take all member interests under consideration.
- Inform, educate and seek input from community constituents. To the extent possible, members will share information and solicit input from their constituents, scientific advisors, and others about ongoing committee discussions and potential agreements or recommendations as they emerge.
- View challenges as problems to be solved rather than battles to be won. Challenges will at times arise during discussion of issues. Remember to focus on the challenge versus on each other. Search for multi-interest solutions, rather than win/lose agreements.
- Be creative and innovative problem solvers. Creative thinking and problem solving are essential to success in any collaboration. Get beyond the past, climb out of the perceived "box" and attempt to think about the problem, and potential solutions, in new ways.
- Negotiate in good faith. All members agree to candidly and honestly participate in decision making, to act in good faith in all aspects of this effort, and to communicate their interests in group meetings. Good faith also requires that parties not make commitments for which they cannot or do not intend to honor.
- Consider the long-term view. Taking a long-term view of the planning horizon may help inform collaborative discussions and reduce conflict, and thereby ensure long-term sustainability of groundwater resources.

*Ground rules*

- Use common conversational courtesy and treat each other with respect. Civil and respectful dialogue tends to foster a constructive, thorough and solutions-oriented environment within multi-stakeholder groups.
- Remember that all ideas and points of view linked to the committee's charge have value. All ideas have value in this setting. Simply listen, you do not have to agree. If you hear something you do not agree with or you think is silly or wrong, please remember that a fundamental purpose of this forum is to encourage diverse ideas.
- Be candid, listen actively and seek to understand others. This promotes genuine dialogue and mutual understanding. Mutual understanding in turn helps parties identify shared interests. Shared interests set the foundation to finding and developing mutually acceptable agreements.
- Be concise and share the air. Keep in mind that time is limited at meetings. Be concise when sharing your perspective so that all members can participate in the discussion and remember, people's time is precious, treat it with respect.
- Avoid editorial comments. At times it will be tempting to try and interpret the intentions or motivations of others. Please avoid this temptation and instead speak to the interests you represent and the motivation behind them.

- Stay focused on the meeting agenda. The committee is a Brown Act compliant body. As such, it is important to stay focused on the posted agenda for any given meeting.
- Welcome levity and humor to the discussions. Work around water can at times be daunting and filled with challenges. Levity and humor are both welcome and helpful at times, as long as it does not come at the expense of others.
- Turn cell phones off or to vibrate. Help the group avoid distractions by turning cell phones to vibrate, not checking email during meetings and, if you must take a call, taking it outside the room.

**12. Communications/Media Relations**
Members are asked to speak only for themselves or the constituency they represent when asked by external parties, including the media, about the committee's work, unless there has been a formal adoption of a statement, report, or recommendations by the committee. Members will refer media inquiries to GSA staff while also having the freedom to express their own opinions to the media. Members should inform media and external parties that they only speak for themselves and do not represent other members or the committee as a whole. The temptation to discuss someone else's statements or positions should be avoided.

**13. Indemnification/Defense**
Claims Arising from Acts or Omissions.

No GSA, nor any officer or employee of a GSA, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by another GSA under or in connection with this MOU. The GSA's further agree, pursuant to California Government Code section 895.4, that each GSA shall fully indemnify and hold harmless the other GSA and its agents, officers, employees and contractors from and against all claims, damages, losses, judgements, liabilities, expenses, and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with any work delegated to or action taken or omitted to be taken by such GSA under this MOU .

**14. Litigation**
In the event that any lawsuit or legal action is brought by a third party against either GSA based upon or arising out of the terms of this MOU or the activities hereunder, the Parties shall cooperate in the defense of such lawsuit or legal action. Each GSA shall bear its own legal costs associated with such litigation or legal action.

**15. Books and Records**
Each GSA will be entitled to receive copies of documents, records, historical data, data compiled through consultants and any and all information related to groundwater within the Big Valley Groundwater Basin developed pursuant to this MOU; provided that nothing in this paragraph shall be construed to operate as a waiver of any right to assert any privilege that might apply to protect the disclosure to information or materials subject to the attorney-client privilege, attorney work product privilege, or other applicable privilege or exception to disclosure.

**16. Miscellaneous**

a. Term of Agreement. This MOU shall remain in full force and effect until the date upon which all parties to this agreement have executed a document terminating the provisions of this MOU.
b. Termination. This MOU may be terminated by either party without cause upon thirty (30) days' prior written notice to the other party.
c. No Third-Party Beneficiaries. This MOU is not intended and will not be construed to confer a benefit or create any right on any third party, or the power or right to bring an action to implement any of its terms.
d. Amendments. This MOU may be amended only by written instrument duly signed and executed by all parties.
e. Compliance with Law. In performing their respective obligations under this MOU, the Parties shall comply with and conform to all applicable laws, rules, regulations and ordinances.
f. Construction of Agreement. This MOU shall be construed and enforced in accordance with the laws of the United States and the State of California.

**17.** All notice required by this MOU will be deemed to have been given when made in writing and delivered or mailed to the respective representatives of the Parties at their respective addresses as follows:

For the County of Modoc: Clerk of the Board
204 South Court Street
Alturas, CA 96101

For the County of Lassen:
Lassen County Planning and Building Services
707 Nevada Street, Suite 5
Susanville, CA 96130

**18. UC Cooperative Extension Farm Advisor Offices**
The assistance provided by the Lassen and Modoc County UC Cooperative Extension Farm Advisor Offices in the development of the GSP and the first GSP Annual Report is recognized and appreciated by the GSAs. The GSAs willingly accept any additional assistance said offices may be able to provide the GSAs in future years undertaking activities necessary to implement the GSP as required by SGMA.

GSA staff from both GSAs are hereby directed to coordinate with the UC Cooperative Extension Farm Advisor Offices for all future GSP implementation and for all activities associated with this MOU.

**19. Preservation of Powers**

Each GSA shall retain its powers granted through SGMA. In addition, each GSA reserves its rights and its ability to exercise those rights in its sole and absolute discretion, and confirm that nothing contained herein shall:

1. Alter any water right, contract right, or any similar right held by either GSA, landowners or customers, or amend any water delivery practice, course of dealing, or conduct.
2. Limit or interfere with the respective GSA's rights and authorities over their own internal matters, including, but not limited to, legal rights to surface water supplies and assets, groundwater supplies and assets, facilities, operations, water management and water supply matters.
3. Modify or limit either GSA's police powers, land use authorities, well permitting authority, or any other authority.
4. Modify or limit the authority of either County from issuing well permits and making any findings required by local ordinance or state law, regulation, or executive order. Each County will determine the protocol to be followed when issuing well permits within its own jurisdiction.

**20. Project Implementation**

The BVAC shall make a recommendation regarding any project being considered by either GSA related to implementation of the GSP before the GSA approves said project. If a particular project involves both GSAs, execution of a project implementation agreement will be considered by the GSAs.

**21. Annual Reports and Five Year GSP Updates**

The SGMA requires that annual reports be submitted to DWR by April 1st of every year following adoption of a GSP. The SGMA also requires that five-year updates be submitted to DWR, in accordance with the adopted regulations.

Annual reports shall be submitted to the BVAC prior to consideration by the GSAs. The BVAC shall make a recommendation to the GSAs regarding the five-year update prior to presentation of said five-year update to the GSAs.

To the greatest degree reasonably possible, the annual report and five-year updates will be prepared by both GSAs' staff working cooperatively with the UC Cooperative Extension Farm Advisors offices, and other partners as necessary. Only if it is determined by the GSAs that this is not reasonably feasible, will a contract for professional services be considered. If a contract for professional services is being considered by either GSA regarding implementation of the GSP or activities required by SGMA, the BVAC shall make a recommendation to the GSA or GSAs prior to execution of any contract.

GSA staff will also investigate grants and other funding mechanisms and report their findings to the GSAs as information becomes available. The BVAC will provide a recommendation to the

GSAs regarding any potential grant application. However, staff from either GSA, may, at its own discretion, present potential grant funding opportunities directly to their GSA, without said grant opportunity first having to be considered by the BVAC, if, in staff's opinion, there is insufficient time for the BVAC to consider said opportunity.

**22. Annual GSP Work Plan and Schedule**

On a yearly basis, staff from each GSA will work cooperatively on the development of a draft Annual GSP Work Plan and Schedule. Said draft Work Plan and Schedule will be presented to the BVAC for comment prior to consideration by the two GSAs. The draft Work Plan and Schedule shall list the goals and objectives to be achieved by the GSAs within the 12 months following adoption of said Annual Work Plan and Schedule for the development, financing, and implementation of the Big Valley GSP. The Annual GSP Work Plan and Schedule shall include an estimated cost (or estimated cost range) and deadline for completing each goal and objective included in the Annual GSP Work Plan and Schedule.

The Annual GSP Work Plan and Schedule may be amended from time to time by a majority vote of each of the two GSAs to conform with new information and developments related to the Basin and the financing and implementation of the Big Valley GSP.

If possible and available, information regarding the potential availability of grant funds that may be appropriate for the implementation of the Annual GSP Work Plan and Schedule should be presented concurrently to or prior to consideration of the Annual GSP Work Plan and Schedule. If it is determined appropriate to do so, and if the timing of the grant funding allows, the BVAC may comment on the potential availability of grant funds that may be appropriate for the implementation of the Annual GSP Work Plan and Schedule prior to presentation of the Annual GSP Work Plan and schedule to the GSAs. However, staff from either GSA, may, at its own discretion, present potential grant funding opportunities directly to their GSA, without said grant opportunity first having to be considered by the BVAC, if, in staff's opinion, there is insufficient time for the BVAC to consider said opportunity.

**23. Annual GSP Implementation Budget**

On a yearly basis, as soon as reasonably possible after submittal of the Big Valley GSP Annual Report to the Department of Water Resources (which is due April 1st of each year following adoption of the GSP), the BVAC shall recommend, by a majority vote of its members, an Annual GSP Budget.

At a minimum, the Annual GSP Budget shall include the following:

1. An estimate of staff time needed from each GSA for the upcoming Fiscal Year for implementation of the Big Valley GSP Annual Work Plan and Schedule.

2. A list of goods or services or category of goods and services, necessary for and related to the development, financing, monitoring, and implementation of the Annual GSP Work Plan and Schedule for the upcoming Fiscal Year.

If possible, the Annual GSP Budget should be considered concurrently with the approval of the Annual GSP Work Plan and Schedule.

For the Annual GSP Budget to take effect, said Budget must be approved by each GSA.

Each GSA shall pay for those expenses set forth and approved in the Annual GSP Budget in the proportions set forth below (based on the percentage of the total Groundwater Basin within the jurisdiction of the respective GSA):

- Lassen County Big Valley Groundwater Basin Groundwater Sustainability Agency - 72%
- Modoc County Big Valley Groundwater Basin Groundwater Sustainability Agency – 28 %

The above percentages shall remain in effect until modified by amendment of this MOU or in accordance with other applicable requirements. The GSAs will consider amendment of the above percentages at the time that any Basin Boundary Modification is proposed. Additionally, either GSA may, at any time, request review of said percentages, at which time the BVAC shall provide a report to the GSAs.

In Kind Contributions are appropriate and recognized as satisfactory to meet cost share requirements of a party to the Agreement. Any In Kind contributions to be substituted for monetary reimbursement of GSP implementation costs shall be included in the Annual GSP Work Plan and Schedule and approved in writing as part of the Annual GSP Implementation Budget.

If the GSAs determine, during consideration of the Annual GSP Implementation Budget, that cost sharing is required for any contract or expenditure, cost-sharing allocations for any contract or expenditure shall be agreed to in writing in advance of executing any contracts with consultants, vendors, or other contractors or incurring any expense. Any such contracts shall be drafted in a manner that reflects that consultants, vendors or contractors hired to perform work are working on behalf of both GSAs and shall work with both GSAs on a collective basis. The contracts shall include appropriate indemnity language and insurance provisions agreed to by the GSAs.

Nothing in this MOU shall prevent either GSA from voluntarily incurring its own costs related to GSP development and implementation at that GSAs expense.

**24. Lassen-Modoc Big Valley GSAs Group**

A Share Point site has been established where a copy of records and data associated with the development and implementation of the GSP is maintained. Said Share Point site is hosted by Lassen County. However, access will be provided to appropriate staff from both GSAs and to the Farm Advisors from both counties. Lassen County will continue to host the Share Point site. A copy of all future records (such as annual reports, five-year updates, etc.) and associated data and records associated with implementation of the GSP will be maintained on said Share Point site.

**Signature**

The parties here to have executed Amended and Restated Memorandum of Understanding as of the dates shown below.

The effective date of this MOU is the latest signature date affixed to this page. This MOU may be executed in multiple originals or counterparts. A complete original of this MOU shall be maintained in the records of each of the parties.

COUNTY OF LASSEN

By: _____ Date: 8/23/2022
Chairman, Lassen County Board of Supervisors

ATTEST:

By: _____ Date: 8/23/2022
Clerk of the Board

APPROVED AS TO FORM:

_____ Date: 8/4/2022
Lassen County Counsel

COUNTY OF MODOC

By: _____ Date: _____
Chairman, Modoc County Board of Supervisors

ATTEST:

By: _____ Date: _____
Clerk of the Board

APPROVED AS TO FORM:

_____ Date: 8-4-2022
Modoc County Counsel

*County of Modoc*
Clerk of the Board

*Modoc County is a collaborative community where people, families, government, and businesses, live, work, and thrive.*

**Tiffany Martinez**
*Clerk of the Board*
204 South Court Street
Alturas, CA 96101
Phone: (530) 233-6201
email:
tiffanymartinez@co.modoc.ca.us
website: www.co.modoc.ca.us

August 31, 2022

Gaylon F. Norwood
Deputy Director
707 Nevada Street, Suite 5
Susanville, CA 96130-3912

RE: Big Valley GSP MOU

Mr. Norwood,

Enclosed is the signature page for the Big Valley GSP MOU that was adopted and signed by the Modoc County Board of Supervisors on August 23, 2022.

I have retained the copy sent to Modoc County from Lassen County to have one copy on file in Modoc County with original signatures.

Sincerely,

Tiffany

Tiffany Martinez
Clerk of the Board

RECEIVED

SEP 07 2022

LASSEN COUNTY DEPARTMENT OF
PLANNING AND BUILDING SERVICES

**Signature**
The parties here to have executed Amended and Restated Memorandum of Understanding as of the dates shown below.

The effective date of this MOU is the latest signature date affixed to this page. This MOU may be executed in multiple originals or counterparts. A complete original of this MOU shall be maintained in the records of each of the parties.

COUNTY OF LASSEN

By: _____ Date: _____
Chairman, Lassen County Board of Supervisors

ATTEST:

By: _____ Date: _____
Clerk of the Board

APPROVED AS TO FORM:

_____ Date: 8/4/2022
Lassen County Counsel

COUNTY OF MODOC

By: Geri Byrne Date: 8-23-2022
Chairman, Modoc County Board of Supervisors

ATTEST:

By: Tiffany J. Martinez Date: 8-23-2022
Clerk of the Board

APPROVED AS TO FORM:

_____ Date: 8-4-2022
Modoc County Counsel