

**SEASIDE GROUNDWATER BASIN WATERMASTER  
NOTICE  
BUDGET AND FINANCE COMMITTEE MEETING  
WEDNESDAY  
NOVEMBER 19, 2014 at 11:00 AM  
SEASIDE CITY HALL CONFERENCE ROOM**

**AGENDA**

**Committee Members**

City of Seaside  
*Daphne Hodgson - Chair*  
California American Water  
*Eric Sabolsice*  
City of Sand City  
*Todd Bodem*  
Coastal Subarea Landowners  
*Paul Bruno*

The next Watermaster Budget and Finance Committee meeting will be held on Wednesday, November 19, 2014 at 11:00 A.M. at the Seaside City Hall Conference Room.

*The public may comment on any item within the committee's jurisdiction. Please limit comments to three minutes in length.*

**Action Items:**

1. Discuss/Consider Recommendation to the Watermaster Board regarding the funding of \$20,000 - \$25,000 for the Professional Service Contract / Request for Proposal from Russ McGlothlin of Brownstein, Hyatt, Farber, and Schreck to:
  - (1) Request a stay of the 2015 through 2018 Operating Yield reduction;
  - (2) Update the Court concerning recent regional water supply developments pertinent to the Seaside Basin; and
  - (3) Update the court concerning the recent modeling results and findings concerning the Laguna Seca subbasin and Watermaster's intended work plan over the following year to address long-term water reliability for the subbasin.
  
2. Professional Service Contract / Request for Proposal from Gus Yates of Todd Groundwater – Informational only.

**SEASIDE GROUNDWATER BASIN  
WATERMASTER**

TO: Budget and Finance Committee

FROM: Laura Dadiw

REVIEWED AND APPROVED BY: Dewey D. Evans, CEO

DATE: November 19, 2014

SUBJECT: Discussion on whether Watermaster should obtain legal counsel for Laguna Seca Subarea and other matters

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**RECOMMENDATIONS:**

It is recommended that the Committee review the legal services proposal from Mr. McGlothlin and consider as an alternative presenting Scope of Work items (1) and (3) in the 2014 Annual Report to Court instead of as a separate motion, and consider addressing item (2) at a later date.

**BACKGROUND:**

The Board at its October 1, 2014 Watermaster special board meeting approved retaining legal representation on three matters to be brought before the Court. The motion approving retention of legal services contained no parameters regarding costs.

Mr. McGlothlin provided to Watermaster CEO a draft Scope of Work: "PROFESSIONAL shall prepare, file and appear at a motion before the Monterey County Superior Court in the Seaside Basin Adjudication (*California American Water v City of seaside, et al.*, Case No. M66343) (the "Motion") to: (1) request a stay of the 2015 through 2018 Operating Yield reduction; (2) update the Court concerning recent regional water supply developments pertinent to the Seaside Basin; and (3) update the court concerning the recent modeling results and findings concerning the Laguna Seca subbasin and Watermaster's intended work plan over the following year to address long-term water reliability for the subbasin. The total estimated cost submitted by Mr. McGlothlin to perform the three items was \$20,000 - \$25,000 plus any additional costs requiring prior written approval by Watermaster.

The Watermaster Administrative Committee at its November 6, 2014 meeting concurred that the estimated cost for proposed legal services appeared prohibitive, and suggested using the Watermaster 2014 Annual Report to convey to the Court any Watermaster request related to the triennial Operating Yield reduction, and to provide preliminary information on the recent modeling results and findings concerning the Laguna Seca Subarea.

**DISCUSSION:**

A stay of the 10% triennial reduction in production by standard producers (California American Water, City of Seaside (Municipal), DBO Development No. 30, and Granite Rock Company) effective October 1, 2014 would delay for three years the process of achieving annual production equivalent to the Natural Safe Yield of the Basin as set forth in the Decision. A stay would increase to an unknown degree the amount standard producers are able to "carry over" to the 2016 - 2019 water years, carry over that would otherwise diminish with the enforcement of the triennial ramp down.

The recent modeling results concerning the Laguna Seca subbasin are slated for peer review by Gus Yates of Todd Groundwater for a cost of \$25,420. Any formal notification to the court of this matter would best be done after peer review is complete and a verified basis for development of a work plan is in place.

It should be considered that if the contract for legal services is approved, there would be very limited time for Mr. McGlothlin to prepare the motion to be filed by December 15, 2014 as stated in the documents.

**FISCAL IMPACT:**

Acceptance of the contract for the proposed legal services would necessitate a budget adjustment and require Watermaster board determination whether the Administrative or Monitoring and Management - Operating Budget would fund the services. Also, contract approval would require an assessment be levied on the parties responsible for funding the budget addition.

# **PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT TO PROVIDE PROFESSIONAL SERVICES is made and entered into on \_\_\_\_\_ by and between SEASIDE GROUNDWATER BASIN WATERMASTER, hereinafter referred to as "WATERMASTER," and BROWNSTEIN HYATT FARBER SCHRECK LLP , a Limited Liability Partnership, hereinafter referred to as "PROFESSIONAL," as follows:

## **SECTION I: ADHERENCE TO TERMS OF AGREEMENT**

WATERMASTER intends to literally interpret and strictly apply all terms and conditions of this Agreement. All approvals which are required to be in writing must be in writing to be valid and binding. PROFESSIONAL is encouraged to raise to WATERMASTER any questions with regard to interpretation or applicability of any provision of this Agreement before undertaking the work.

## **SECTION II: EMPLOYMENT**

WATERMASTER hereby employs PROFESSIONAL, as an independent contractor to furnish the professional services covered by this Agreement, and the Requests for Service issued under it, in accordance with the terms and conditions set forth below, and PROFESSIONAL hereby accepts such employment.

## **SECTION III: WORK ASSIGNMENTS**

It is the intent of WATERMASTER and PROFESSIONAL to authorize the performance of work under this Agreement by executing a series of written work assignments setting forth the specific description, scope, and costs of the work to be performed. Such assignments shall be called "Requests For Service" (RFS) and shall be numbered consecutively. Each RFS, upon execution by PROFESSIONAL and by WATERMASTER, shall become and be considered as a part of this Agreement, and all provisions herein shall apply to said RFSs. The RFS form to be used is contained in Attachment A to this Agreement.

## **SECTION IV: TIME OF PERFORMANCE**

- A. General - Time is of the essence on the work of the RFSs issued under this Agreement. Therefore, PROFESSIONAL shall perform its services in a

timely manner. Specific performance times shall be specified for each individual RFS under this Agreement. PROFESSIONAL shall make every reasonable effort, including assigning of additional personnel to the work and/or working overtime, to complete the authorized work within these stipulated time periods. The taking of such additional measures to complete the work within the stipulated time periods will not entitle PROFESSIONAL to additional compensation, if the work is being performed under the Lump Sum Payment Method, except as provided for in Section V, Paragraph B.

- B. Subcontracted Services - For subcontracted services PROFESSIONAL shall contract for and schedule such services in a timely fashion in accordance with the requirements of the work, and shall be fully responsible for the performance and quality of all work performed by its subcontractors.
- C. Extensions of Time - The time of performance established for a particular RFS may be extended at any time prior to completion of the work by mutual agreement in writing between WATERMASTER and PROFESSIONAL.

#### SECTION V: COMPENSATION

- A. General - WATERMASTER and PROFESSIONAL shall negotiate the costs and fees for each specific RFS. The method of payment of said costs and fees shall be either on a lump-sum basis, on a cost-plus-a-fixed-fee basis, or on a time-and-expense basis. The method of payment will depend on the specific conditions, the scope of work, and the services to be performed for each specific RFS.
- B. Projected Cost Overruns Under Cost-Plus-a-Fixed-Fee or Time-and-Expense Payment Methods - If, at any time in the performance of the work of a specific RFS under the Cost-Plus-a-Fixed-Fee or Time-and-Expense payment methods, PROFESSIONAL has reason to believe that the costs which it expects to incur to complete the work of that RFS will exceed the total amount authorized for that RFS, PROFESSIONAL shall notify WATERMASTER in writing to that effect. The notice shall:
  - (1) State the reason(s) why PROFESSIONAL anticipates a cost overrun;
  - (2) State the estimated amount of additional funds beyond the

total amount currently authorized that will be required to complete the work authorized by the RFS; and

- (3) Provide recommendations of how the overrun can be avoided;

If, after such notification, additional funds are not allotted, WATERMASTER will, if required in writing by PROFESSIONAL, terminate the work of that particular RFS pursuant to the provisions in Section VI, TERMINATION.

- C. Lump-Sum Payment Method - WATERMASTER may elect to pay PROFESSIONAL a lump sum Total Price amount to be determined for a specific RFS. In addition to this lump sum amount, a Special Services allowance, as defined in this section, may also be established.
  1. Lump Sum Total Price - PROFESSIONAL shall perform all work authorized by a lump sum type of RFS for the lump sum Total Price amount. No additional payments for said work will be requested by PROFESSIONAL or authorized by WATERMASTER, unless both parties agree that there is additional work, beyond the scope of services authorized by the RFS, which must also be performed. Before any such additional work is undertaken, WATERMASTER and PROFESSIONAL shall execute a separate amendment to the RFS setting forth the scope and costs of the additional work to be performed.
  2. Special Services Allowance - To cover unforeseen circumstances, WATERMASTER and PROFESSIONAL may negotiate a Special Services allowance. PROFESSIONAL shall provide WATERMASTER with written notification stating the reasons for requiring the utilization of any or all of the Special Services allowance. No utilization of any portion of the allowance shall occur without the prior written approval of the WATERMASTER. Special Services costs will be charged in accordance with the Time-and-Expense Payment Method as defined in Paragraph D of this section.
- D. Cost-Plus-A-Fixed-Fee Payment Method - WATERMASTER may elect to pay PROFESSIONAL on a cost-plus-a-fixed-fee basis which shall be the

sum of (1) Direct Salaries, (2) Overhead Costs, (3) Direct Non-Salary Expenses, and (4) A Fixed Fee.

1. Direct Salaries - Shall be the amount paid by PROFESSIONAL to its employees for time directly chargeable to a given RFS, exclusive of costs for fringe benefits for said employees and other payroll costs not paid to the employee.
  2. Overhead Cost - Shall be a percentage of the Direct Salaries. The percentage to be charged shall be negotiated between WATERMASTER and PROFESSIONAL, and it shall be stipulated in each RFS for which this type of payment method will be used.
  3. Direct Non-Salary Expenses - Shall be all identifiable costs directly chargeable to each RFS including, but not limited to: travel and subsistence expenses; work subcontracted to others; reproduction of plans, specifications, reports and other documents; equipment rental; and, drafting and stenographic supplies used in the work. The chargeable rate for automobile mileage for the work to be performed under this shall be stated in the RFS.
  4. Fixed Fee - Shall be a fixed amount for interest on invested capital, readiness to serve, and profit. A fixed fee shall be established for each specific RFS for which the cost-plus-a-fixed-fee payment method will be used. This fixed fee will not change regardless of whether the Total Estimated Cost is greater than or less than the actual costs, unless both parties agree that there has been a change in scope. In such instance, the fixed fee will be renegotiated.
  5. Total Estimated Cost - Is the sum of categories (1), (2), and (3) above.
  6. Total Price - Is the sum of categories (1), (2), (3), and (4) above.
  7. Invoices - Invoices shall include the costs incurred in categories (1), (2), and (3), plus a proportionate amount of the category (4) Fixed Fee.
- E. Time-and-Expense Payment Method - For tasks for which the scope of

work is not readily definable, WATERMASTER may elect to pay PROFESSIONAL on a time-and-expense basis in accordance with the PROFESSIONAL's most current Standard Schedule of Compensation. The hourly rates set forth in the Standard Schedule of Compensation shall be inclusive of all direct and indirect salary costs, overhead, fringe benefits, profit, and other costs, and shall reflect the total hourly charge for each listed job category. Other direct non-salary expenses for the performance of work authorized under the Time-and-Expense Payment Method shall be all identifiable costs directly chargeable to each RFS including, but not limited to: travel and subsistence expenses; work subcontracted to others; reproduction of plans, specifications, reports and other documents; equipment rental; and, drafting and stenographic supplies used in the work. The chargeable rate for automobile mileage for the work to be performed under this Agreement shall be stated in the RFS. Direct non-salary expenses shall be compensated for at their actual cost, unless otherwise stated in the RFS, providing they have been authorized in advance by WATERMASTER. A Total Price, which may not be exceeded without WATERMASTER's prior written approval, will be established for each specific RFS for which this payment method will be used.

- F. Terms of Payment - PROFESSIONAL shall invoice WATERMASTER monthly for work completed during the previous month, unless a different invoicing frequency is agreed to by both parties to this Agreement. All invoices shall be due and payable within thirty (30) days of the date of receipt by WATERMASTER, provided all costs included in the invoice are adequately supported by documentation accompanying the invoice. If payment is not made within sixty (60) days of the date of receipt by WATERMASTER, interest on the unpaid balance will accrue beginning with the sixty-first day at the rate of 1.0 percent per month, or the maximum interest rate permitted by law, whichever is the lesser. Such interest shall become due and payable at the time said overdue payment is made.
  
- G. Penalty for Late Performance - The PROFESSIONAL is not responsible for delays in the schedule caused by events outside PROFESSIONAL's reasonable control. However, in the event PROFESSIONAL fails to properly complete work within thirty (30) days of the date such work is due (pursuant to schedules developed in accordance with Section IV of this Agreement), because of events within PROFESSIONAL's reasonable control, WATERMASTER SHALL reduce the total compensation established for the

work of that RFS by ten percent (10%). Said reduction shall be deemed liquidated damages for the untimely performance of work required by this Agreement. PROFESSIONAL shall be deemed to have waived any claim for such amount by reason of his failure to perform in a timely fashion.

#### SECTION VI: TERMINATION

Notwithstanding the above, WATERMASTER reserves the right to terminate any RFS to this Agreement at any time prior to the completion of the services to be furnished by PROFESSIONAL under said RFS by giving a written Notice of Termination to PROFESSIONAL, in which event WATERMASTER shall pay PROFESSIONAL only for work done and direct costs incurred by PROFESSIONAL under said RFS prior to receipt of such notice of termination. Such costs will include reasonable costs to bring the work to a halt, and costs to deliver to WATERMASTER the documentation described in the following paragraph. Termination of a particular RFS will not affect any other operative RFS.

Upon receipt of a Notice of Termination, PROFESSIONAL shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver to WATERMASTER all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by PROFESSIONAL in performing work under this Agreement, whether completed or in process.

Upon termination WATERMASTER may take over the work and prosecute the same to completion by agreement with another party or otherwise. Any work taken over by WATERMASTER for completion will be completed at WATERMASTER's risk, and WATERMASTER will hold harmless PROFESSIONAL from all claims and damages arising out of improper use of PROFESSIONAL's work.

#### SECTION VII: WATERMASTER LIABILITY

PROFESSIONAL understands that this Agreement is with WATERMASTER alone, and that none of the members of WATERMASTER are liable for any sums which may be payable hereunder, or for any debts of WATERMASTER.

#### SECTION VIII: CHANGES

WATERMASTER may, at its discretion and from time to time, revise, correct, or modify the work to be performed under an RFS. All such changes shall be made formally and in writing to PROFESSIONAL. PROFESSIONAL shall comply with such changes.

Should PROFESSIONAL determine that said changes will result in an increase or decrease in costs to PROFESSIONAL, these costs shall be evaluated by WATERMASTER and PROFESSIONAL for negotiation as to adjustment in the compensation due PROFESSIONAL, and written agreement as to said adjustment shall be reached between the parties prior to commencement of any work that will cause an increase or decrease in PROFESSIONAL's costs. Any increased costs in excess of the Total Price incurred by PROFESSIONAL prior to execution of a written agreement covering said increased costs shall not be compensable.

#### SECTION IX: DUTIES OF WATERMASTER

WATERMASTER agrees to perform duties in connection with this Agreement and RFS issued under it as follows:

- A. To assist PROFESSIONAL in obtaining any available information concerning location and details of facilities under control of WATERMASTER that may affect the work of an RFS, and to render reasonable assistance to PROFESSIONAL;
- B. To examine within a reasonable time so as not to delay the work of PROFESSIONAL, all studies, reports, sketches, drawings, specifications, cost estimates, proposals and other documents presented by PROFESSIONAL to WATERMASTER for such purpose;
- C. To give prompt written notice to PROFESSIONAL whenever WATERMASTER observes or otherwise becomes aware of any defect in the work of PROFESSIONAL;

#### SECTION X: DATA FURNISHED BY WATERMASTER

For the purpose of aiding PROFESSIONAL in the performance of its obligations under this Agreement and RFS issued under it, WATERMASTER shall furnish PROFESSIONAL all relevant data in its possession and shall render all reasonable assistance to PROFESSIONAL in connection with its performance hereunder. WATERMASTER is responsible for the reasonable correctness of data so furnished, but it shall likewise be the responsibility of PROFESSIONAL to apply reasonable caution in its use and interpretation of the data and to promptly advise WATERMASTER of any incorrectness or suspected incorrectness in the data furnished.

WATERMASTER shall provide to PROFESSIONAL in a timely manner all materials, decisions, and direction which are necessary to the progress of the work and which are basically the prerogative of WATERMASTER, but which PROFESSIONAL is not required to determine or provide under the terms of this Agreement.

#### SECTION XI: RESPONSIBILITIES OF PROFESSIONAL

PROFESSIONAL is employed to render a professional service only, and any payments made to him are compensation solely for such services as he may render and recommendations he may make in carrying out the work. PROFESSIONAL shall follow professional practices to make findings, opinions, factual presentations, and professional advice and recommendations.

PROFESSIONAL's review or supervision of work prepared or performed by other individuals or firms employed directly by WATERMASTER shall not relieve those individuals or firms of complete responsibility for the adequacy of their work.

PROFESSIONAL shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports and other services furnished by PROFESSIONAL under this Agreement. PROFESSIONAL shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in his designs, drawings, specifications, reports and other services.

PROFESSIONAL shall perform such professional services as may be necessary to accomplish the work required to be performed under this Agreement and in accordance with this Agreement.

Approval by WATERMASTER of drawings, designs, specifications, reports, and incidental engineering work or materials furnished hereunder shall not in any way relieve PROFESSIONAL of responsibility for the technical adequacy of his work. Neither WATERMASTER's review, approval or acceptance of, nor payment for, any of the services rendered under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

PROFESSIONAL shall be and remain liable in accordance with applicable law for all damages to WATERMASTER caused by PROFESSIONAL's negligent performance of any of the services furnished under this Agreement. The only exception in this regard will be

for errors, omissions or other deficiencies to the extent attributable to WATERMASTER, WATERMASTER-furnished data or any third party not under the control of PROFESSIONAL. PROFESSIONAL shall not be responsible for any time delays in the project caused by circumstances beyond PROFESSIONAL's control.

#### SECTION XII: SUBCONTRACT

WATERMASTER has entered into this Agreement in order to receive the professional services of PROFESSIONAL. PROFESSIONAL will therefore not make an assignment to a third party of all or any portion of the services required of PROFESSIONAL under this Agreement and RFSs thereto without first obtaining the written consent of WATERMASTER. PROFESSIONAL may, however, make use of the part-time assistance of other experts possessing unique skills, the utilization of which will, in the opinion of PROFESSIONAL, enhance the quality of its service to WATERMASTER under this Agreement provided, however, that any such additional assistants, part-time or otherwise, shall be considered employees of PROFESSIONAL or of PROFESSIONAL's subcontractor(s), and the responsibility for same shall rest with PROFESSIONAL.

#### SECTION XIII: INDEPENDENT PROFESSIONAL

PROFESSIONAL shall perform the services hereunder as an independent contractor, and nothing herein contained shall be construed to be inconsistent with this relationship or status. The employees of PROFESSIONAL shall not be deemed to be the employees of WATERMASTER, and WATERMASTER shall have no right to control the physical conduct of PROFESSIONAL's employees.

#### SECTION XIV: USE OF DOCUMENTS

For all work performed under this Agreement and all RFSs thereto, PROFESSIONAL shall provide to WATERMASTER copies of all plans, drawings, specifications, studies, reports, analyses, calculations, and all other work products and supporting documentation developed in the course of performing the work authorized by these agreements. The costs for reproducing, assembling, and delivering said copies of these documents to WATERMASTER shall be considered to have been included in the price for performing each RFS, whether or not specifically stated therein. Unless stated otherwise in the RFS, one paper copy, and the electronic file on disc or on CD (e.g. in MS Word, MS Excel, etc.), of each document shall be provided by PROFESSIONAL to WATERMASTER. WATERMASTER shall have the right, and permission of PROFESSIONAL, to use any such document for any purpose which WATERMASTER

deems appropriate. Use of documents for other than their intended purpose shall be at WATERMASTER's risk. WATERMASTER shall hold PROFESSIONAL harmless from all claims and damages arising out of improper use of said documents.

#### SECTION XV: AMENDMENTS AND SCOPE OF AGREEMENT

WATERMASTER hereby reserves the right to amend the provisions of this Agreement from time to time as may be in the best interest of WATERMASTER. Such amendments, upon acceptance by PROFESSIONAL and by WATERMASTER, shall become and be considered as part of this Agreement, and all provisions herein shall apply to such amendments.

This Agreement constitutes the entire agreement between the parties relative to the subject matters hereof, and no modifications thereof shall be effective unless and until such modifications are evidenced by written amendments, signed by both parties, to this Agreement. There are no understandings, agreements, conditions, representations, warranties, or promises with respect to the subject matter of this Agreement which are not actually contained in the Agreement, except those expressly contained in such written amendments.

#### SECTION XVI: SUCCESSORS AND ASSIGNS

This Agreement and all amendments thereto shall be binding upon and inure to the benefit of any successors and assigns of the respective parties hereto.

#### SECTION XVII: ATTORNEYS' FEES

If any legal action is necessary to enforce or interpret the terms or provisions of this Agreement and all amendments thereto, and the respective rights and duties of the parties hereunder, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which he may be entitled.

#### SECTION XVIII: JURISDICTION

This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in this state. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall be in full force and effect.

## SECTION XIX: INSURANCE

PROFESSIONAL shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by PROFESSIONAL, his agents, representatives, employees or subcontractors.

### A. Minimum Scope and Limits of Insurance

PROFESSIONAL shall maintain the types of insurance with limits no less than those set forth below, and having no deductibles, except as noted.

The coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001).
2. Insurance Services Office Form No. CA 0001 covering Automobile Liability, Code 1 (any auto).
3. Workers Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Errors and Omissions Liability insurance appropriate to the consultant's profession. For architects and engineers this coverage shall be endorsed to include contractual liability.

Required coverage:

1. General Liability Insurance: Combined single limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location, or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability Insurance: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability Insurance: \$1,000,000 per accident for bodily injury or disease. If PROFESSIONAL has no employees, this coverage is not required.

4. Workers' Compensation Insurance: As required by the State of California.
5. Errors and Omissions Insurance: PROFESSIONAL shall procure and maintain errors and omissions liability insurance appropriate to the type of professional services that PROFESSIONAL will be providing under this Agreement. The minimum coverage shall be \$1,000,000 per claim and in the aggregate.

B. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by WATERMASTER before any work under this Agreement is performed.

C. Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. WATERMASTER, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of PROFESSIONAL; products and completed operations of PROFESSIONAL; premises owned, occupied or used by PROFESSIONAL; or, automobiles owned, leased, hired or borrowed by PROFESSIONAL. The coverage shall contain no special limitations on the scope of protection afforded to WATERMASTER, its officers, officials and employees.
2. For any claims related to this project, PROFESSIONAL's insurance coverage shall be primary insurance as respects WATERMASTER, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by WATERMASTER, its officers, officials, employees, or volunteers shall be excess of PROFESSIONAL's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to WATERMASTER, its officers, officials and employees.
4. PROFESSIONAL's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the

insurer's liability.

5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to WATERMASTER.
6. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a current A. M. Best's rating of no less than A:VII, unless otherwise acceptable to WATERMASTER.

F. Verification of Coverage

PROFESSIONAL shall furnish WATERMASTER with original certificates and amendatory endorsements effecting coverage required by this section. The endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by WATERMASTER before work commences. If this is not possible due to time constraints prior to commencement of work, PROFESSIONAL may initially furnish Certificates of Insurance in lieu of endorsements, as long as the endorsements are provided within forty-five (45) days from the date of execution of this Agreement.

G. Subcontractors

PROFESSIONAL shall include all subcontractors as insureds under its policies or shall furnish separate evidence of coverage and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

SECTION XX: INDEMNIFICATION

PROFESSIONAL shall indemnify and hold harmless WATERMASTER and its officers, officials, employees and agents from and against all losses, claims, demands, payments, suits, actions, recoveries, and judgements of every nature and description

brought or recoverable against it or them by reason of any negligent act, negligent error, or negligent omission of PROFESSIONAL, his agents, or employees for work performed under this Master Agreement. The only exception in this regard will be for errors, omissions or other deficiencies to the extent attributable to WATERMASTER, WATERMASTER-furnished data or any third party not under the control of PROFESSIONAL.

SECTION XXI: WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person or by mail to the individuals and at the addresses listed below:

A. WATERMASTER: Chief Executive Officer  
Seaside Basin Watermaster  
2600 Garden Road, Suite 228  
Monterey, CA 93940

B. PROFESSIONAL: Russ McGlothlin  
Brownstein Hyatt Farber Schreck LLP  
21 East Carrillo Street  
Santa Barbara, CA 93101-2706

IN WITNESS WHEREOF, the parties hereto have executed this Agreement consisting of fifteen (15) pages and one (1) Attachment in duplicate on the date hereinabove written.

WATERMASTER

PROFESSIONAL

SEASIDE BASIN WATERMASTER

By \_\_\_\_\_  
Dewey D. Evans  
Chief Executive Officer

By \_\_\_\_\_  
Brownstein Hyatt Farber Schreck LLP  
(fill in title of signer)

SEASIDE BASIN WATERMASTER  
REQUEST FOR SERVICE

DATE: October 23, 2014

RFS NO. 2014-01  
(To be filled in by WATERMASTER)

TO: Russ McGlothlin  
Brownstein Hyatt Farber Schreck LLP

FROM: Dewey Evans  
Watermaster

**Services Needed and Purpose:**

Provide legal services to prepare, file, and appear at a motion with the Superior Court regarding the matters more fully described in Attachment 1

**Completion Date:** All court filings authorized by this RFS No. 2014-01 shall be completed not later than December 31, 2014 with an anticipated hearing to follow.

**Method of Compensation:** Time and Expense Payment Method (As defined in Section V of Agreement.) Hourly rates and costs for Other Direct Costs and Expenses are described in Attachment 1.

**Total Price Authorized by this RFS:** \$(25,000) (Cost is authorized only when evidenced by signature below.)

**Total Price** may not be exceeded without prior written authorization by WATERMASTER in accordance with Section V. COMPENSATION.

**Requested by:** Not Applicable to this RFS Date: \_\_\_\_\_  
WATERMASTER Technical Program Manager

**Authorized by:** \_\_\_\_\_ Date: \_\_\_\_\_  
WATERMASTER Chief Executive Officer

**Agreed to by:** \_\_\_\_\_ Date: \_\_\_\_\_  
PROFESSIONAL

## ATTACHMENT 1

### Scope of Work:

PROFESSIONAL shall provide the following services under this RFS No. 2014-01:

PROFESSIONAL shall prepare, file, and appear at a motion before the Monterey County Superior Court in the Seaside Basin Adjudication (*California American Water v. City of Seaside, et al.*, Case No. M66343) (the “Motion”) to: (1) request a stay of the 2015 through 2018 Operating Yield reduction; (2) update the Court concerning recent regional water supply developments pertinent to the Seaside Basin; and (3) update the court concerning the recent modeling results and findings concerning the Laguna Seca subbasin and Watermaster’s intended work plan over the following year to address long-term water reliability for the subbasin. The primary attorneys that shall work on this scope of work will be Russell McGlothlin and Jena Shoaf

### Total Estimated Cost:

The cost to provide the services described in the Scope of Work is estimated as follows:

<b>Task:</b>	<b>Target Due Date</b>	<b>Low</b>	<b>High</b>
1. Develop Outline of Motion and Call with Watermaster to Obtain Agreement on Scope	November 12	\$2,000	\$3,000
2. Draft Motion	November 28	\$8,000	\$9,000
3. Attend Up to Two Telephonic Meetings with Watermaster concerning Draft Motion	December 10	\$1,000	\$2,000
4. Revise and File Motion (Including Administrative Organization and Outreach to Court)	December 15	\$2,000	\$3,000
5. Prepare for and Appear at Motion	January 2015	\$7,000	\$8,000
<b>Total</b>		<b>\$20,000</b>	<b>\$25,000</b>

In no case shall the total cost for these services exceed the dollar amount stated in the “Total Price Authorized by this RFS” on page 1 of this RFS No. 2014-01 without the prior written approval of WATERMASTER.

June 23, 2014

Russell M. McGlothlin  
Attorney at Law  
805.882.1418 tel  
805.965.4333 fax  
RMcglathlin@bhfs.com

**VIA EMAIL**

Dewey Evans  
Chief Executive Officer  
Seaside Groundwater Basin Watermaster  
2600 Garden Road Suite 228  
Monterey, CA 93940  
[watermasterseaside@sbcglobal.net](mailto:watermasterseaside@sbcglobal.net)

**RE: Agreement for Legal Services**

Dear Mr. Evans:

Thank you for retaining Brownstein Hyatt Farber Schreck, LLP ("Brownstein"), to advise Seaside Groundwater Basin Watermaster ("Watermaster") regarding extractions outside of the Laguna Seca subarea and cumulative extractions in excess of the subarea's safe yield ("Laguna Seca Matter"). In our representation of Watermaster regarding the Laguna Seca Matter, we are representing Watermaster and not its member agencies.

This letter and the enclosed Terms and Conditions constitute the Legal Services Agreement between Brownstein and Watermaster. This Agreement will also apply to other services that we may provide you from time to time, at your request, unless we execute a separate agreement. When we refer to "you" in this Agreement, we are referring to you in your representative capacity for Watermaster.

We cannot predict with certainty the amount of fees and costs that may be incurred. Our hourly rates are based upon the experience, reputation and ability of the professional performing the required service, and we will assign to your matter the personnel who, in our judgment, are best suited to represent you. My current hourly rate is \$525, however my hourly rate will be discounted to \$450 for Watermaster. I will be assisted by Jena Shoaf whose current hourly rate is \$290. Unless you request otherwise, we will bill you for services rendered and disbursements and charges on a monthly basis. Subject to the Terms and Conditions, you agree to pay those statements upon receipt, and no later than the last day of the month in which you receive the statement. We are not requesting a retainer.

If you agree with the provisions of this letter and with the Standard Terms and Conditions, please sign the enclosed copy where indicated, and return it to us with the Disclosure of Relationship, and Waiver of Potential Conflict of Interest. If you do not understand any portion of this letter, or the attached Standard Terms and Conditions, or if you have any questions, please call us at your earliest convenience. If you require advice about your decision to engage us, you should confer with independent counsel before signing this agreement. We cannot give you advice about that decision.

We look forward to a long and productive relationship with you, and thank you for the opportunity to represent you.

1020 State Street  
Santa Barbara, CA 93101-2711  
main 805.963.7000

Sincerely,

Russell M. McGlothlin

RMM:amm

Enclosures: Standard Terms and Conditions  
Disclosure of Relationship, and Waiver of Potential Conflict of Interest

ACCEPTED AND AGREED TO:

SEASIDE GROUNDWATER BASIN WATERMASTER

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

ACCEPTED AND AGREED TO:

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: \_\_\_\_\_

Robert J. Saperstein  
Managing Shareholder, California

Dated: \_\_\_\_\_

# BROWNSTEIN HYATT FARBER SCHRECK, LLP

## STANDARD TERMS AND CONDITIONS

Scope of Representation: The scope of our representation is set forth in the attached Letter. Our representation of you on any particular matter will end when we have completed our essential work on that matter.

Duties of the Parties: We agree to provide all legal services reasonably required to represent you, consistent with our ethical obligations. It is our intent to provide you with thorough, prompt and cost-efficient legal services, keep you informed of significant developments in the matter, and respond to your inquiries. You agree to fully cooperate with us, be open and truthful and provide us with all information pertaining to the matter, keep us informed of developments, to pay our bills in a timely manner, and keep us advised of your address, telephone number and whereabouts. You also agree to appear at any proceeding we deem necessary and to cooperate fully with us on all matters related to the investigation, preparation and presentation of your matter.

Fees: We review all billing statements before they are issued to ensure that the amount charged is appropriate. The statement for fees is simply the product of the hours worked multiplied by the hourly rates for the attorneys and legal assistants who did the work. The current range of hourly rates for our professional services is:

Partners:	From \$350 to \$1065 per hour
Of Counsels:	From \$300 to \$1065 per hour
Associates:	From \$210 to \$400 per hour
Land Use Planners:	From \$150 to \$265 per hour
Paralegals:	From \$150 to \$265 per hour
Legal Assistants:	From \$100 to \$150 per hour

We adjust our rate structure at the beginning of each calendar year. You agree to pay all fees billed at the then-current rate.

Outside Contract Attorneys and Legal Assistants: You agree that we may utilize specialized contract attorneys and legal assistants as necessary. You agree to pay the reasonable hourly rate for these legal services.

In-House Costs and External Expenses: In addition to charging fees for legal work, we will charge for certain out-of-pocket costs incurred by our firm in representing clients. Charges for long distance telephone calls, facsimile charges, in-office copying, ordinary postage and deliveries made by in-house staff are covered by a 2.5% administrative fee, calculated at 2.5% of fees incurred. This administrative fee is in lieu of itemizing those costs. Other fees, such as computer-assisted legal research and third party vendor fees including document copying, transcript production, overnight delivery service charges, travel, meals and hotel accommodations will be itemized and billed separately at cost.

Other in-house costs and expenses include, but are not limited to, secretarial overtime, extraordinary administrative, technical or accounting support; computer legal research; messenger and other delivery fees; mileage, and the cost of licensing and other installation of special computer programming to manage your case. These are directly billed to you at our cost.

External expenses are also charged at cost. These include, but are not limited to, the following: Notary fees; consultant costs, investigative costs, professional mediator, arbitrator

and/or special master fees; travel costs, including parking, transportation, meals and hotels. External expenses will either be passed through to you for direct payment to the vendor or included on your statement. We may select experts, consultants and investigators who in our judgment are necessary to aid in the preparation of your matter and will inform you of the persons selected and their charges. You authorize us to incur all reasonable costs and to hire such experts, consultants and investigators. We will not incur any major external expenses on your behalf without your prior approval.

Billing Period and Payments: We will bill you for services rendered and disbursements and charges on a monthly, or such other periodic, basis as we may determine. If you require additional statements, you agree to request them at intervals of no less than 30 days and we agree to respond within 10 days.

You agree to inform us of any dispute you may have with respect to a statement within 10 days of the statement date. If you do not object, the statement will be deemed correct. If you do object, we will consider our right to the fees and costs set forth on that statement as "disputed." Absent a dispute, you agree to pay all statements upon receipt, and no later than the last day of the month in which you receive the statement. Even if you dispute a portion of a statement, you agree to pay the undisputed portion not later than the last day of the month in which you receive the statement. If payment is not timely received, we may assess a monthly delinquency charge of 1.25% (15% per year) of the amount not paid until paid in full. Payments will be applied to the longest outstanding charges in the following order: first, costs, then delinquency charges, and then fees.

Retainers: If required, you agree to pay an advance fee retainer upon execution of this agreement and agree that we may, at our discretion, withdraw the undisputed amount of any statement, whether fees or costs, from any retainer you have on deposit. You agree to replenish the retainer monthly to maintain a credit toward fees. That means that, even though you have a retainer on account, you still must pay your statements as they become due. If we expect significant additional expenses, you agree to provide a further retainer within 15 days of our request.

Your retainer will be held on your behalf in our trust account without interest to you, because California law requires all interest earned on such funds to be forwarded to the California State Bar for its Legal Service Trust Fund Program. If you prefer, you may request that we hold your funds in a non-interest bearing account, or in an interest bearing account for your benefit. If you make such a request, you agree to pay administrative costs of a one-time \$75 set-up charge and a \$25 per month service charge. At the conclusion of our representation, we will return any unearned retainer to you.

As an additional retainer and as security for the payment of our fees, costs and expenses, you agree that we have a first priority lien on all claims and causes of action that are the subject of our representation under this Agreement and on all proceeds or property obtained or recovered, whether by agreement, settlement, mediation, arbitration award, court judgment, cost or fee award or otherwise resulting from our representation.

No Guarantee: Our comments about the potential outcome of your matter or any phase thereof are expressions of opinion only. We cannot guarantee the outcome or make any promises in that regard.

Discharge: Our goal is to maintain at all times a constructive and positive relationship with you, to the conclusion of this matter and in future matters. However, you have the right to discharge us as your lawyers at any time, and we have the right to withdraw from your representation at any time, consistent with our ethical obligations. If you discharge us or we elect to withdraw, you agree to immediately secure new counsel. If we are your attorneys of record in any proceeding, you agree to cooperate fully in substituting such new counsel as your attorneys of record. At the time of discharge or withdrawal, you agree to immediately pay us for all services rendered to you and for all costs and expense paid or incurred by us on your behalf.

Files: At the conclusion of our services, your files will be transferred to you upon request. You agree to pay the cost of accessing, copying and delivering the file to you. If you do not request the return of your files within five (5) years from either the completion of our essential work on the matter or the termination of our relationship by discharge or withdrawal, we have the right, but not the obligation, to destroy any files created and maintained by us with respect to the matter.

Disputes: Any controversy or claim arising out of or relating to fees and/or costs incurred under this Agreement shall be resolved pursuant to Business and Professions Code section 6200 *et seq.* All other disputes arising out of or relating to this Agreement or the professional services rendered under this Agreement, shall be determined in accordance with the laws of the State of California. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction. Each side shall bear its own costs and attorney fees in said arbitration.

Miscellaneous: Unless you instruct us to the contrary in writing, we will utilize facsimile, e-mail, cellular phone, PDA and similar communication methods, and we disclaim any liability for unauthorized third-party interception of communications. You agree that we may use your name and information generally available to the public in our marketing efforts.

Interpretation and Effective Date: This agreement is our entire and only agreement and is governed by California law. If any provision is found unenforceable, the remainder of the agreement will remain in effect. This agreement will not take effect until you sign and return the enclosed copy of the letter with these terms and conditions attached and until the agreement has been countersigned by the firm's Managing Partner. This agreement will then be retroactive to the date services were first provided. If this agreement does not take effect, you will still be required to pay us the reasonable value of any services we have performed for you.

June 23, 2014

Russell M. McGlothlin  
Attorney at Law  
805.882.1418 tel  
805.965.4333 fax  
RMcglathlin@bhfs.com

**VIA EMAIL**

Daphne Hodgson  
Deputy City Manager of Administrative Services  
City of Seaside  
440 Harcourt Avenue  
Seaside, CA 93955  
[dhodgson@ci.seaside.ca.us](mailto:dhodgson@ci.seaside.ca.us)

James Cullem  
Executive Director  
Monterey Peninsula Regional Water Authority  
580 Pacific Street, Monterey  
Monterey, CA 93940  
[Cullem@monterey.org](mailto:Cullem@monterey.org)

Dewey Evans  
Chief Executive Officer  
Seaside Groundwater Basin Watermaster  
2600 Garden Road Suite 228  
Monterey, CA 93940  
[watermasterseaside@sbcglobal.net](mailto:watermasterseaside@sbcglobal.net)

RE: Disclosure of Relationship, and Waiver of Potential Conflict of Interest

Dear Ms. Hodgson, Mr. Cullem, and Mr. Evans:

The purpose of this letter is to disclose to the City of Seaside ("Seaside"), Monterey Peninsula Regional Water Authority ("MPRWA") and Seaside Groundwater Basin Watermaster ("Watermaster") potential conflicts of interest relating to our simultaneous representation of Seaside, MPRWA and Watermaster (collectively "Monterey Clients" or "you") which might involve similar issues over which we represent the Monterey Clients, and to obtain the Monterey Clients' written acknowledgment of that disclosure and waiver of any current conflicts of interest, if any. This letter confirms and supplements prior discussions and documentation regarding this matter between you and representatives of Brownstein. Watermaster has requested our assistance regarding the matter of extractions outside of the Laguna Seca subarea and cumulative extractions in excess of the subarea's safe yield ("Laguna Seca Matter"). In our representation of Watermaster regarding the Laguna Seca Matter, we are representing Watermaster and not its member agencies. We will take direction from Mr. Evans and other employees of Watermaster regarding the Laguna Seca Matter.

The applicable California Rules of Professional Conduct (attached) require us to explain the extent of our client relationships, fully disclose any existing or potential conflicts of interest, and obtain your written

1020 State Street  
Santa Barbara, CA 93101-2711  
main 805.963.7000

consent to our ongoing concurrent representations of the Monterey Clients. It is important that you understand the nature of these potential conflicts before signing the attached Consent and Waiver of Conflict of Interest, pursuant to the Rules of Professional Conduct (attached).

As previously discussed, the Monterey Clients understand that Brownstein represents numerous private and public agency clients throughout California and the western states, as well as on a federal and international basis. We currently represent a number of cities and special districts as general and special counsel, and are engaged in numerous matters throughout California relating to water law and policy. Brownstein provides a variety of professional services for its clients, including general counsel services, transactions, litigation, legislative advocacy, regulatory compliance, political and strategic advice, coalition building and other services.

We recognize that actual conflicts may arise in the future. Should we become aware that our representation of any current or future client may create an actual conflict of interest with our representation of the Monterey Clients, either among you or individually with other clients, it is our intent to promptly advise you so that you may decide whether you wish to obtain independent counsel concerning that matter or consent to Brownstein's continued representation of you.

As of the date of this letter, we are aware of no actual legal conflicts involving the Monterey Clients. However, the attorney-client relationships discussed below may create the potential for a conflict of interest. Each of these circumstances has previously been disclosed to the Monterey Clients.

(1) Brownstein represents MPRWA with respect to issues relating to Cal-Am's proposed Monterey Peninsula Water Supply Project ("MPWSP") for which Cal-Am is presently seeking approvals from the CPUC and other agencies, and efforts to obtain an extension of the Cease and Desist Order in SWRCB WR Order 2009-0060 ("CDO") to allow sufficient time for the completion of the MPWSP. This will likely include future proceedings before the SWRCB. We also generally represent the MPWSP concerning water supply by Cal-Am to the Monterey Peninsula, which may involve future proceedings before the SWRCB, CPUC, other regulatory agencies, or the California Courts.

(2) Brownstein represents Seaside with respect to matters concerning the Seaside Groundwater Basin ("Seaside Basin") and Seaside's use of groundwater from the Seaside Basin. Seaside does not extract groundwater from the Laguna Seca subarea, which is the precise subject of the proposed representation of Watermaster. However, Seaside shares Watermaster's concern and goals for robust management of the Seaside Basin and long-term protection of all areas of the Seaside Basin pursuant to the Seaside Basin Groundwater Judgment. As such, the interests of Seaside and Watermaster are aligned at present with respect to the proposed representation of Watermaster with respect to the Laguna Seca Matter.

(3) Brownstein previously represented Cal-Am with respect to issues pertaining to the Carmel River, but no longer does so.

(4) Brownstein also represented the cities of Sand City, Del Rey Oaks, Pacific Grove, Seaside, Monterey and Carmel before the California Public Utilities Commission ("CPUC"), and other judicial and administrative venues, with respect to the prior proposed water supply project referred to as the Regional Water Project that was proposed to provide replacement water to Cal-Am, and Cal-Am's request to approve a moratorium within its Monterey District. Brownstein's present representation of the interests of the aforementioned cities concerning replacement water supplies for the Monterey Peninsula is undertaken pursuant to our representation of the MPRWA.

(5) Brownstein previously represented the City of Monterey with respect to other water matters within the city but no longer does so.

By signing this letter and returning it to us, Seaside, MPRWA and Watermaster acknowledge that we have fully disclosed the foregoing matters to you. Although we do not presently perceive a likely conflict of interest and cannot predict with specificity the manner in which a conflict could arise, the interrelated nature of the Carmel River, the Seaside Basin, and the proposed MPWSP, which are used (or proposed to be used) by Cal-Am in an integrated manner to serve water demands on the Monterey Peninsula, could cause a conflict of interest to arise.

At the same time, it is foreseeable that a conflict of interest may arise in the future. For example, if Seaside were to differ with Watermaster with respect to the strategy and proper approach for resolving the Laguna Seca Matter, Brownstein could not represent any party to that matter without proper informed written consent. Likewise, a conflict could arise if the Laguna Seca Matter presented an issue related to the completion or operation of the MPWSP or efforts to manage issues stemming from the CDO, in which case, Brownstein could not represent any party to that matter without proper informed written consent.

Should an actual conflict occur between the MPRWA, Seaside or Watermaster regarding any matter in which Brownstein represents the Monterey Clients, we will attempt to resolve the conflict in a manner that protects our ability to continue our concurrent representation of you. However, that may not be possible or practical given the ethical rules presented below. Thus, we request that Seaside, the MPRWA and Watermaster waive any potential conflict of interest with respect to our representations as disclosed above. Should a conflict or dispute arise that we cannot resolve informally among the Monterey Clients, we will not represent any of the Monterey Clients with respect to the disputed matter.

We very much value our relationship with Seaside and MPRWA and the opportunity to represent Watermaster, and recognize that you are free to terminate your engagement of Brownstein at any time.

Should you have any questions regarding this letter, please contact me. We respectfully request that you sign and return the enclosed copy of this letter acknowledging that you have been advised of the California Rules of Professional Conduct and of the potential conflicts associated with your respective interests, and that you nevertheless agree to the concurrent representation and the waiver of conflicts regarding the Monterey Clients.

We encourage you to seek the advice of independent counsel in reviewing this consent. Should you have any questions concerning this letter or the consent, please discuss them with your own, independent counsel before signing and returning the enclosed copy of this letter.

Best Regards,



Russell M. McGlothlin  
Brownstein Hyatt Farber Schreck, LLP

Enclosures: California Rules of Professional Conduct

**CONSENT AND WAIVER**

The undersigned acknowledge receipt of the above written disclosure pursuant to the California Rules of Professional Conduct and understand the matters discussed therein. Having all this information in mind, I consent and give approval to Brownstein's concurrent representation of Seaside, MPRWA and Watermaster as described in this letter, and waive any actual or potential conflict of interest arising from such representation. In the event that an actual conflict of interest occurs, we will not represent any of the Monterey Clients with respect to the disputed matter.

I acknowledge that I have had an opportunity to review this matter with independent legal counsel. In the event that I have not discussed the matter with a legal counselor of my choice before executing this consent/waiver, I freely and voluntarily waive such counsel, although I understand that I have the right to seek such independent counsel regarding this matter at any time.

CITY OF SEASIDE

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
Daphne Hodgson  
Deputy City Manager, City of Seaside

MONTEREY PENINSULA REGIONAL WATER AUTHORITY

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
James Cullem  
Executive Director

SEASIDE GROUNDWATER BASIN WATERMASTER

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

California Rules of Professional Conduct, Rule 3-310 (B) and (C)

- "(B) A member shall not accept or continue representation of a client without providing written disclosure to the client where:
- (1) The member has a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; or
  - (2) The member knows or reasonably should know that:
    - (a) the member previously had a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; and
    - (b) the previous relationship would substantially affect the member's representation; or
  - (3) The member has or had a legal, business, financial, professional, or personal relationship with another person or entity the member knows or reasonably should know would be affected substantially by resolution of the matter; or
  - (4) The member has or had a legal, business, financial, or professional interest in the subject matter of the representation.
- (C) A member shall not, without the informed written consent of each client:
- (1) Accept representation of more than one client in a matter in which the interests of the clients potentially conflict; or
  - (2) Accept or continue representation of more than one client in a matter in which the interests of the clients actually conflict; or
  - (3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter."

SEASIDE BASIN WATERMASTER  
REQUEST FOR SERVICE

**DATE:** November 20, 2014

**RFS NO.** 2014-01  
(To be filled in by WATERMASTER)

**TO:** Gus Yates  
Todd Groundwater  
PROFESSIONAL

**FROM:** Robert Jaques  
WATERMASTER

**Services Needed and Purpose:** Perform a peer review of hydrogeologic modeling and other related work performed by HydroMetrics WRI. See detailed Scope of Work in Attachment 1.

**Completion Date:** If notice-to-proceed is issued by WATERMASTER to PROFESSIONAL by December 1, 2014, all work of this RFS shall be completed not later than March 31, 2015, and shall be performed in accordance with the Schedule contained in Attachment 1. If notice-to-proceed is issued later than December 1, 2014, a commensurate later completion date will be specified.

**Method of Compensation:** Time and Materials (As defined in Section V of Agreement.)

**Total Price** Authorized by this RFS: \$ 25,420.00 (Cost is authorized only when evidenced by signature below.) (See Attachment 1 for Estimated Costs).

**Total Price** may not be exceeded without prior written authorization by WATERMASTER in accordance with Section V. COMPENSATION.

**Requested by:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
WATERMASTER Technical Program Manager

**Authorized by:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
WATERMASTER Chief Executive Officer

**Agreed to by:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
PROFESSIONAL

# **ATTACHMENT 1**

## **SCOPE OF WORK AND ESTIMATED COSTS**

### **Background**

At its October 1, 2014 meeting the Watermaster Board directed staff to have a peer review performed on the Technical Memoranda that HydroMetrics WRI (HMWRI) has recently prepared for the Watermaster consisting of (1) updating the Basin model and checking its accuracy of predicted vs. measured ground water levels, and (2) evaluating various issues pertaining to the Laguna Seca Subarea of the Basin.

Both of these Technical Memos from HMWRI are posted on the Watermaster's website which is: <http://www.seasidebasinwatermaster.org/sbwmARC.html>. The two Technical Memos are the July 30 and July 31, 2014 postings in the "Reports" column of the "Postings and Records" tab of the website. The Laguna Seca memo is marked "Draft" since the Board wanted to have the peer review done to determine if any changes should be made to the Memorandum before it is finalized.

Due to the size of these Technical Memoranda they are not attached to this RFS No. 2014-01, but are incorporated herein by this reference thereto as background documents that PROFESSIONAL has reviewed in order to prepare the "Peer Review of Laguna Seca Analysis and Seaside Basin Groundwater Modeling" that is contained in Exhibit "A."

### **Scope of Work**

The Scope of Work of this RFS No. 2014-01 will include an investigation of two areas where recent model results could directly affect basin management decisions: groundwater outflow from the Laguna Seca subarea to the El Toro subarea, and apparent errors in simulated water levels in the Northern Coastal subbasin. It will involve reviewing reports and memoranda, meetings with HMWRI personnel, sensitivity testing of the Groundwater Model, and preparing a Peer Review Memorandum. The peer review is expected to shed additional light on trans-boundary pumping effects in the Laguna Seca subarea and uncertainty in simulation results in the northern Coastal Subbasin, both of which are issues important to current water management decisions.

Based on past experience with peer reviews and PROFESSIONAL's initial review of HMWRI technical memoranda, it is anticipated that additional information from the simulation results will need to be extracted and that a small number of model sensitivity tests will need to be implemented. The most efficient way to accomplish that is with the assistance of HMWRI. Accordingly, the tasks include actions for PROFESSIONAL and for HMWRI. HMWRI has reviewed the task list contained in Exhibit "A" and provided a cost estimate for their part of the work, which is attached along with PROFESSIONAL's cost estimate for its part of the work.

The Scope of Work is described in detail in Exhibit "A."

### **Estimated Costs**

The estimated costs for PROFESSIONAL to complete the peer review as described in Exhibit "A" is \$25,420.00. A breakdown of these costs is also contained in Exhibit "A." The total cost authorized by this RFS No. 2014-01 is \$25,420.00.

**EXHIBIT “A”**

October 30, 2014

## MEMORANDUM

**To:** Bob Jaques, Seaside Basin Watermaster

**From:** Gus Yates, PG, CHG and Iris Priestaf, PhD, Todd Groundwater

**Re:** Peer review of Laguna Seca Analysis and Seaside Basin groundwater Modeling

The following tasks describe the approach we recommend for completing a technical peer review of recent studies by HydroMetrics Water Resources, Inc. (HMWRI) related to yield in the Laguna Seca subarea of the Seaside Basin and updated groundwater modeling of the entire basin. The review will be more than purely academic. It will include an investigation of two areas where recent model results could directly affect basin management decisions: groundwater outflow from the Laguna Seca subarea to the El Toro subarea, and apparent errors in simulated water levels in the Northern Coastal subbasin.

Based on past experience with peer reviews and a brief preliminary review of HMWRI technical memoranda, we anticipate wanting to extract additional information from the simulation results and implement a small number of model sensitivity tests. The most efficient way to accomplish that is with the assistance of HMWRI. Accordingly, the tasks include actions for me and for HMWRI. HMWRI provided a cost estimate based on a preliminary description of potential modeling work that we provided. For your information, their cost estimate is attached along with the cost estimate for our review work.

Gus Yates will serve as the primary peer reviewer. He has previously completed studies of groundwater in the Seaside Basin, including a groundwater model of the Laguna Seca Subarea. Furthermore, he has completed peer reviews of groundwater technical studies in four other basins during the past year, for which he efficiently and impartially identified strengths, uncertainty and limitations of modeling studies.

### SCOPE OF WORK

#### Task 1. Review Reports and Memoranda

Mr. Yates will carefully review the July 2014 Model Update Report and the August 2014 Laguna Seca Yield Analysis, referring to the original 2009 Groundwater Modeling Report as needed. He will compile a list of questions regarding model assumptions, algorithms and output related to: 1) the effects of external pumping on water levels and yield in the Laguna Seca Subarea and 2) discrepancies between measured and simulated water levels in the

northern coastal subarea during the 2008-2013 model update period. He will also prepare a list of additional model output from recent simulations that would help address the questions. For example, this might include contours of simulated groundwater levels in the Laguna Seca-El Toro area and water balances for subareas within that region. He will submit the questions and information request in an informal written communication to HMWRI.

**Task 2. First Meeting with HydroMetrics WRI**

HMWRI will compile information and prepare responses to the questions raised by Mr. Yates. HMWRI and Mr. Yates will meet to discuss the information and explore any concerns related to accuracy or bias in model output or conclusions drawn from modeling results. The discussion might identify additional tests of the model that would present a clearer picture of its strengths and weaknesses. For example, this might include sensitivity of simulation errors in the northern coastal subarea to assumptions or parameters related to the ocean boundary, vertical leakance between model layers, and storativity.

**Task 3. Sensitivity Testing of Groundwater Model**

HMWRI will complete additional tests of the model as agreed upon at the first meeting and transmit a summary of the results to Mr. Yates in an informal e-mail. Mr. Yates will review those results in preparation for the second meeting.

**Task 4. Second Meeting with Hydrometrics WRI**

Mr. Yates and HMWRI staff will meet again to discuss the results of the model sensitivity tests as well as the overall strengths and weaknesses of the model and the associated degree of confidence in water resources management recommendations that are based on model output.

**Task 5. Prepare Peer Review Memorandum**

Mr. Yates will summarize his findings and the results of the meetings and model tests in a draft memorandum to the Watermaster. He will attend a meeting of the TAC and/or Board in Seaside to present and discuss the draft report and receive comments. If the Watermaster, technical advisory committee or Board members have verbal or written questions or comments, Mr. Yates will address those in a final version of the peer review memorandum. Any questions or comments that require additional modeling might need to be supported by a budget augmentation for HMWRI.

**SCHEDULE**

Following a notice to proceed, the anticipated schedule to complete the tasks is as follows:

- Task 1 ..... 3 weeks
- Task 2 ..... 2 weeks

Task 3 .....	4 weeks
Task 4 .....	2 weeks
Task 5 (draft) .....	2 weeks
Task 5 (final) .....	2 weeks after receipt of comments
Total	15 weeks

## COST

The estimated cost for Todd Groundwater to complete the peer review is \$13,110. HMWRI estimates that their cost to support the peer review will be a maximum of \$12,310. If fewer sensitivity tests are needed, the cost would be lower. The total combined cost is \$25,420. Details of the cost estimates by person and task are attached.

**Cost Estimate for Peer Review of Laguna Seca and Seaside Basin Groundwater Modeling Studies  
Todd Groundwater**

	Iris Priestaf	Gus Yates	Drafting /GIS	Admin	Total Hours	Total Labor Costs	Expenses	Total Labor and Expenses
	Principal	Senior Hydrologist						
	\$205	\$185						
Task 1. Review Reports and Memoranda	1	16		1	18	\$3,255	\$0	\$3,255
Task 2. First Meeting with HydroMetrics WRI		4			4	\$740	\$0	\$740
Task 3. Sensitivity Testing of Groundwater Model		6			6	\$1,110	\$0	\$1,110
Task 4. Second Meeting with HydroMetrics WRI		4			4	\$740	\$0	\$740
Task 5. Prepare Peer Review Memorandum	3	28	4	1	36	\$6,285	\$100	\$6,385
<b>Total</b>	<b>4</b>	<b>58</b>	<b>4</b>	<b>2</b>	<b>68</b>	<b>\$12,130</b>	<b>\$980</b>	<b>\$13,110</b>

Todd submits invoices monthly on a time and materials basis; we regard this estimate as a not-to-exceed budget.

30-Oct-14

**Cost Estimate for HydroMetrics WRI Support of Todd Groundwater Peer Review**

Tasks	HydroMetrics WRI Labor					Labor Total		TOTALS
	Derrick Williams	Georgina King	Stephen	Haleemah				
	President	Senior Hydrogeologist	Hydrogeologist 3	Hydrogeologist 1				
Rates	\$215	\$185	\$125	\$100	Hours	(\$)	(\$)	
Task 2. First Meeting with Todd Groundwater	4	0	0	0	4	\$ 860	\$ 860	
Task 3. Run Model, Export Output, and Analyze Model Output	8	4	30	8	50	\$ 7,010	\$ 7,010	
Task 4. Second Meeting with Todd Groundwater	4	0	0	0	4	\$ 860	\$ 860	
Task 5. Respond to Additional Questions from TAC/Board	8	6	6	0	20	\$ 3,580	\$ 3,580	
<b>TOTAL</b>	<b>24</b>	<b>10</b>	<b>36</b>	<b>8</b>	<b>78</b>	<b>\$ 12,310</b>	<b>\$ 12,310</b>	