

LONG-TERM GROUNDWATER REPLENISHMENT PROGRAM (“GRP”)
Program Application and Agreement

| Applicant Information | | | | |
|------------------------------|--|--|--|--|
| Applicant Year: | | | | |
| Applicant Name: | | | | |
| Applicant Mailing Address: | | | | |
| Applicant Phone Number: | | | | |

| Property Address Where Applicant Would Apply Water Provided by the GRP | Property APN#(s) Where Applicant Would Apply Water Provided by the GRP (“Applicable Land”) | Total Acreage Of Applicable Land | Total Acreage To Be Irrigated or For Conjunctive Use with Water Provided by the GRP | Crops To Be Irrigated with Water Provided by the GRP |
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(Attach additional addresses if more than one address exists for the Applicable Land.)

Proposed Method(s) of Irrigation:

If a pump is used for irrigation, provide the pumping rate in Gallons Per Minute (“GPM”):
_____ GPM

Proposed MID conveyance facility from which GRP water will be delivered:

| Estimated Fees: | | | | |
|---|------------------|-------------------|-------------|------|
| Category | \$ per Acre-Foot | Estimated af/acre | Total Acres | Cost |
| In-Lieu Water Mandatory Purchase of 12” | \$ 200 | | | |

| | | | | |
|--|--------|--|--|--|
| In-Lieu Water (greater than 12” up to 48”) | \$ 200 | | | |
| Conjunctive Use Water (12” up to 48”) | \$ 125 | | | |
| Total Cost | | | | |

GRP TERMS AND CONDITIONS

Background: On August 8, 2023, Modesto Irrigation District (“MID”) Board of Directors (“Board”) Resolution 2023-40 authorized the form application and agreement for the Long-Term Groundwater Replenishment Program (“GRP”). Pursuant to Resolution 2023-40, the GRP will commence with the 2024 Irrigation Season, as set by MID Board, and will continue for a total of twenty (20) years. The GRP is a voluntary program that allows a participant to enroll and receive MID surface water in certain years to assist in the replenishment of groundwater within the Modesto Subbasin consistent with the Stanislaus and Tuolumne Rivers Groundwater Basin Association Groundwater Sustainability Plan (“GSP”). At no time shall the GRP injure or take priority over MID’s in-district customers.

1.0 In order to participate in the GRP, Landowners Applicable Land must be located within the Modesto Subbasin. Two types of water will be provided: 1) in-lieu water for irrigation purposes associated with agricultural production; or 2) conjunctive use water to be applied for direct recharge into the subbasin. An example includes but is not limited to water for urban use or recharge projects.

2.0 Definitions:

Applicant: The signatory authorized to execute this Application and Agreement

Applicable Land: Property where Applicant applies water provided by the GRP

Modesto Subbasin: The basin as defined by the GSP

In-Lieu Water: Replenishment water used for agricultural irrigation purposes only

Conjunctive Use Water: Coordinated use of surface and groundwater supplies to maximize the overall water resources and assist in improving overall health of the Modesto Subbasin

Replenishment Water: Any water made available through the GRP, including both In-Lieu and Conjunctive Use Water

Trigger Year(s): The time when MID shall make water available to GRP participants in accordance with sound management of its water portfolio. The trigger shall occur when MID sets a 42" uncapped allocation for the irrigation season

Minimum Quantity: The minimum amount of In-Lieu Water which must be purchased in each year GRP water is available (*i.e.*, a Trigger Year)

3.0 Terms:

3.1 Participation in the GRP shall be limited to record owners of real property located within the Modesto Subbasin who meet all of the requirements and agree to comply with all terms and conditions set forth in this Agreement ("Landowner").

- a. Execution of this Application and Agreement constitutes certification to MID that the signatory is authorized to execute this Application and Agreement on behalf of the Landowner and the Landowner shall provide adequate proof of his/her authority to execute this Application and Agreement concurrently with submittal of this Application and Agreement.
- b. Execution of this Application and Agreement constitutes certification to MID that the Landowner is in compliance with the Irrigated Lands Regulatory Program and/or the Dairy Program.
- c. All MID accounts for Landowner, if the Applicant is an existing MID customer, shall be current as of the date this Application and Agreement is executed by the Landowner and at all times thereafter while participating in the GRP.

3.2 Tenants or leaseholders are responsible for obtaining all property owner approvals as well as a copy of the title or grant deed to the applicable real property prior to any delivery of replenishment water. Irrespective of MID requiring confirmation of property ownership, tenants or leaseholders bear any and all responsibility to acquire property owner approvals as needed to participate in the GRP.

3.3 Properly executed Application and Agreement forms will be accepted by MID on a first come, first served basis for the first fifty percent (50%) of available water. The remaining available water will be held in reserve for distribution on a parity basis for applications received in the first thirty (30) days commencing with the setting of MID's annual Water Allocation. All Application and Agreement forms are subject to water availability as conditions could change following submission of properly executed Application and Agreement forms.

3.4 Applicant and Landowner accept without condition that MID, at its sole discretion, will determine Landowner eligibility to participate in the GRP.

3.5 Landowner shall pay a one-time \$1,000.00 non-refundable application fee at the time this Application and Agreement is submitted to MID.

3.6 Landowner shall be responsible for securing and constructing any and all necessary or appropriate private encroachments through adjacent parcels for the delivery of replenishment water and any related regulatory approvals, if needed. MID shall have no obligation whatsoever related to Landowner acquiring necessary approvals to participate in the GRP.

3.7 MID is under no obligation, now or in the future, to furnish, construct or maintain any diversion or service structures or facilities that are located on real property subject to this Application and Agreement.

3.8 All private facilities necessary for participation in the GRP, which are located within MID rights-of-way, shall be installed at the Landowner's sole expense for installation and any necessary regulatory approvals. All plans for such facilities must be submitted to and approved by MID.

3.9 Landowner shall provide direct vehicle ingress and egress to MID and its agents during the term of this Application and Agreement.

3.10 Landowner shall be solely responsible for any and all permitting or other regulatory requirements necessary to participate in the GRP, including all Federal, State, County and/or local agency requirements.

3.11 Upon termination of this Application and Agreement, the Landowner shall pay all costs incurred with retiring and/or removing any and all facilities installed by or on behalf of Landowner to facilitate participation in the GRP which are no longer needed for replenishment water deliveries as determined by MID.

3.12 Landowner shall comply with the current Rules and Regulations Governing the Distribution of Irrigation Water in the Modesto Irrigation District, which may be modified by MID from time to time. Non-compliance with any policy or rule of MID may result in forfeiture of replenishment water deliveries and any other remedy available by law to MID.

3.13 Neither MID's approval of the Application nor Applicant's receipt of water through the GRP shall be construed as a guarantee, representation or promise that any participant in the GRP or any other Landowner outside of MID's irrigation boundary will ever receive any water in any subsequent year. Instead, Landowner accepts that the GRP is a voluntary, discretionary program during which water may only be made available during Trigger Years and/or that may come before the MID Board of Directors as hydrology warrants, and even if so, only upon approval by the MID Board of Directors to amend or alter the GRP for that particular year's irrigation season based upon hydrological conditions in any given year.

3.14 MID makes no representation, guarantee or warranty to Landowner regarding the availability of Replenishment Water or the quantity, quality, or delivery times of said water during Trigger Years. When MID schedules water deliveries, MID customers shall be given priority. The District retains full authority to revise the availability of Replenishment Water at its sole discretion based upon existing hydrological conditions and anticipated demands.

3.15 The GRP may be discontinued or modified for any reason at any time at MID's sole discretion. MID reserves the right to amend, add or otherwise withdraw the terms set forth in this Application and Agreement due to hydrologic and regulatory uncertainties, either of which enable MID to exercise its sole discretion which Applicant fully accepts. MID shall present the Program to the Board for consideration and discussion at a minimum of five year intervals with respect to Price and any other terms the Board wishes to revisit.

3.16 GRP monitoring shall be conducted consistent with the GSP monitoring program. GRP participants agree to fully cooperate with and provide any data required by the GSP monitoring program.

3.17 The Applicant shall warrant that water received through the GRP is put to reasonable and beneficial uses at all times. The use of In-Lieu water shall result in a net benefit to the groundwater supply by reducing the Applicant's reliance upon groundwater resources for agricultural crop activities. The use of conjunctive use water shall result in a net benefit to the groundwater supply by recharging the Modesto Subbasin.

4.0 Price:

4.1 In-Lieu Water Price: Landowners who are approved to participate in the GRP shall pay to MID \$200 per acre-foot of water delivered, with a minimum amount of 12" of water up to 48", under this Application and Agreement. Further, regardless of acreage signed-up and In-Lieu Water requested, a minimum \$500 charge must be paid in every Trigger Year. No GRP deliveries will be scheduled until MID receives payment equal to 50% of the total estimated amount owed, along with the one-time, non-refundable application fee identified above. The price will be automatically increased annually based on the percentage increase that occurs, if one in fact occurs, in MID's approved Water Operations O&M annual budget for that irrigation year.

- a. **Guaranteed Minimum Purchase:** In Trigger Years where water is available for the GRP, Landowner is required to purchase a minimum 12" per irrigated acre (Minimum Quantity). Irrigated acreage will be confirmed by MID. In non-trigger years (*i.e.*, no 42" uncapped allocation for MID customers) or when out-of-district deliveries are otherwise curtailed or suspended by Board action, no Minimum Quantity is required to be purchased and a refund or credit will be provided for any In-Lieu Water already paid for and not delivered due to the Board action resulting in curtailment or suspension that year.
- b. The receipt and use of In-Lieu Water shall be for agricultural irrigation purposes only, and the Landowner shall warrant that the water received is put to reasonable and beneficial uses at all times. Non-beneficial uses include, but are not limited to, water used for lawns, pasture without livestock benefit, hunting and/or wildlife habitat, recreational ponds, and other uses or practices as determined solely by MID. Water shall not be used directly or indirectly for any domestic, commercial or industrial purposes. MID shall not be responsible for any improper uses of water set forth above nor for any waste of water.

- c. The receipt and use of In-Lieu Water through the GRP is limited to use upon the Applicable Land specified in this Application and Agreement, all of which must be solely reliant upon groundwater from the Modesto Subbasin. GRP participants are prohibited from transferring or reselling Replenishment Water and groundwater from Applicable Lands.
- d. Consistent with the intent of the GRP, Applicant agrees to refrain from use of groundwater resources on any Applicable Land subject to this Application and Agreement during the period In-Lieu Water is available and/or shall use the In-Lieu Water in conjunction with other available water sources such that the overall reliance on groundwater is reduced during the period of time the In-Lieu Water is available thereby resulting in an overall net benefit to the Modesto Subbasin groundwater.
- e. MID is under no obligation in the future to enter into subsequent agreements for the irrigation of lands outside MID's irrigation boundary, irrespective of hydrologic or regulatory conditions and whatever improvements or efforts undertaken by an Applicant who in previous years received GRP water.
- f. In order to receive water deliveries, all accounts must be current and in good standing prior to delivery. Unpaid balances, should they occur, shall be considered delinquent 31 days after invoicing. Termination from the Program may occur at MID's discretion as a result of delinquent payments. Additionally, all unpaid balances shall accrue interest and penalties as set forth in the MID Rules and Regulations.

4.2 Conjunctive Use Water Price: Landowners who are approved to participate in the GRP shall pay to MID \$125 per acre-foot of water delivered, with a minimum amount of 12" and up to 48" of water, under this Application and Agreement. Further, regardless of acreage signed-up and Conjunctive Use Water requested, a minimum \$500 charge must be paid in every Trigger Year. No GRP deliveries will be scheduled until MID receives payment equal to 50% of the total estimated amount owed, along with the one-time, non-refundable application fee identified above. The price will be automatically increased annually based on the percentage increase that occurs, if one in fact occurs, in MID's approved Water Operations O&M annual budget for that irrigation year.

- a. The receipt and use of Conjunctive Use Water shall be for any reasonable and beneficial use consistent with the provisions of Water Code section 1242, and the Landowner shall warrant that the water received is put to reasonable and beneficial uses at all times. MID shall not be responsible for any improper uses of water set forth above.
- b. The receipt and use of Conjunctive Use Water through the GRP is limited to use upon the Applicable Land specified in this Application and Agreement. GRP participants are prohibited from transferring or reselling Replenishment Water and groundwater from Applicable Lands.

- c. Consistent with the intent of the GRP, Applicant agrees to refrain from use of groundwater resources on any Applicable Land subject to this Application and Agreement during the period Conjunctive Use Water is available and/or shall use the Conjunctive Use Water in conjunction with other available water sources such that the overall reliance on groundwater is reduced during the period of time the Conjunctive Use Water is available thereby resulting in an overall net benefit to the Modesto Subbasin groundwater.
- d. MID is under no obligation in the future to enter into subsequent agreements for the irrigation of lands outside MID's irrigation boundary, irrespective of hydrologic or regulatory conditions and whatever improvements or efforts undertaken by an Applicant who in previous years received GRP water.
- e. In order to receive water deliveries, all accounts must be current and in good standing prior to delivery. Unpaid balances, should they occur, shall be considered delinquent 31 days after invoicing. Termination from the Program may occur at MID's discretion as a result of delinquent payments. Additionally, all unpaid balances shall accrue interest and penalties as set forth in the MID Rules and Regulations.

5.0 Length of Program:

5.1 The GRP shall be a twenty year program beginning with the first irrigation season following adoption and completion of any applicable California Environmental Quality Act requirements. The Program's length is consistent with and in support of the GSP and the Sustainable Groundwater Management Act compliance timelines and provisions.

AGREEMENT

Landowner agrees to comply with the Long-Term Groundwater Replenishment Program Terms and Conditions set forth above and with MID's Rules and Regulations Governing the Distribution of Irrigation Water within the Modesto Irrigation District, all of which are incorporated herein by reference and are available upon request if not already in the possession of the Landowner.

Landowner warrants and represents that Landowner is legally entitled to enter into this Agreement.

This Agreement is entered into solely for the benefit of Landowner and MID. Neither Landowner nor MID shall assign this Agreement nor any of the rights, interests or obligations hereto. Provided that in the event of the death of any Landowner, the assignment of such deceased Landowner's share or interest in the Agreement by probate proceedings or through the laws of succession of the State of California, shall not constitute a breach of this condition against assignment, provided the transferee of such share or interest shall promptly acknowledge that he or she is bound by the terms and conditions hereof.

This Agreement may be executed in counterparts, with each deemed an original, and all of which taken together shall constitute a single instrument, constituting the entire agreement between the parties with respect to the matters contained herein.

Landowner will defend, indemnify, and hold MID and its directors, officers, representatives, agents and employees and each of them from and against any and all claims, damages, losses, judgments, liabilities, expenses, and other costs, including regulatory challenges and litigation costs and attorney’s fees, arising out of or resulting from, or in connection with the performance of this Application and Agreement or in any manner associated with Landowners’ participation in the GRP.

I, the undersigned, do hereby attest that I have accurately represented my identity, that I am the owner of the Applicable Land subject to this Application and Agreement, and that I am duly authorized to execute this Agreement and participate in the GRP.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge and that this verified Application and Agreement was executed in Stanislaus County on _____, 20__.

The parties hereby execute this Agreement as of the date below.

LANDOWNER

MODESTO IRRIGATION DISTRICT

Name: _____

Name: _____

Title: _____

Title: _____

Signature: _____

Signature: _____

Date: _____

Date: _____

(If more than one Landowner, attach additional Landowner signature pages)

FOR MID USE ONLY:

| | | |
|--|-------------|-----------------------------|
| (Circle One) <u>Approval / Rejection</u> | Date: _____ | Name: _____ Title: _____ |
|--|-------------|-----------------------------|