

FOREBAY SUBBASIN GROUNDWATER SUSTAINABILITY PLAN  
IMPLEMENTATION AGREEMENT

between the

SALINAS VALLEY BASIN GROUNDWATER SUSTAINABILITY AGENCY

and the

ARROYO SECO GROUNDWATER SUSTAINABILITY AGENCY

WHEREAS, on August 29, 2014, the California Legislature passed comprehensive groundwater legislation contained in Senate Bills 1168 and 1319 and Assembly Bill 1739. Collectively, those bills, as subsequently amended, enacted the Sustainable Groundwater Management Act (“SGMA”); and,

WHEREAS, SGMA became effective on January 1, 2015; and,

WHEREAS, SGMA requires all groundwater within basins/subbasins designated as high or medium priority by the California Department of Water Resources Agency (“DWR”) to be managed in a sustainable manner; and,

WHEREAS, groundwater sustainability under SGMA is to be achieved through Groundwater Sustainability Plans (“GSPs”) prepared and adopted by Groundwater Sustainability Agencies (“GSAs”); and,

WHEREAS, under SGMA, a GSP can be a single plan developed by one or more GSAs, or multiple coordinated plans within a basin/subbasin by multiple GSAs (California Water Code §10727); and,

WHEREAS, SGMA also allows the designation of Management Areas (“MAs”) whereby an area within a basin/subbasin may be managed with different measurable objectives or projects, consistent with a single GSP; and,

WHEREAS, an area within the Forebay Aquifer Subbasin of the Salinas Valley Groundwater Basin (“Forebay”) commonly known as the Arroyo Seco Cone (“Cone”) has been the subject of a number of studies and various boundary interpretations; and,

WHEREAS, an earlier interpretation of the Cone boundary was recognized by DWR as a separate subbasin in Bulletin 52 due to its unique geomorphic and hydrologic characteristics, but is no longer recognized as a separate subbasin by DWR but rather a part of the larger Forebay; and,

WHEREAS, the Salinas Valley Basin Groundwater Sustainability Agency (“SVBGSA”) filed to be the GSA for the Forebay, excepting the area within the jurisdictional boundary of the City of Greenfield; and,

WHEREAS, the Arroyo Seco Groundwater Sustainability Agency (“ASGSA”) filed to be the GSA for a portion of the Forebay including the jurisdictional area of the City of Greenfield but also including an area outside those jurisdictional boundaries; and,

WHEREAS, the filings by the SVBGSA and ASGSA created an overlap of GSA jurisdictional areas within the Forebay, threatening state intervention rather than local management of the Forebay; and,

WHEREAS, the SVBGSA and the ASGSA desire to resolve the overlap and memorialize their agreement whereby a single GSP will be prepared and adopted for the Forebay, but an MA will be designated to be managed by the ASGSA, with the SVBGSA managing the balance of the Forebay, all consistent with the single GSP; NOW, THEREFORE,

For good and valuable consideration, the sufficiency of which is hereby acknowledged, the SVBGSA and the ASGSA (each a “Party,” and collectively, the “Parties”) agree as follows:

1. Effective Date and Termination. This Forebay GSP Implementation Agreement (“Agreement”) shall be effective on the day last executed by one of the Parties, and shall remain effective unless terminated as provided below.
2. Single GSP for the Forebay. The Parties agree to cooperate in good faith for the preparation and implementation of a single GSP for the Forebay (“Forebay GSP”), to be reviewed, approved and adopted by the Board of Directors for each of the Parties, and transmitted to the California Department of Water Resources (“DWR”) no later than January 31, 2022. The Parties have each established Subbasin Planning Committees, Advisory Committees and Executive Committees to provide a public process for review and comments on the Forebay GSP. The Parties will utilize the Parties’ respective technical experts as outlined in the Memorandum of Understanding executed by the Parties on July 9, 2020 to review and coordinate the preparation of the GSP including coordinated water budgets and management actions. In preparing the Forebay GSP, the Parties agree to do all things necessary to ensure the Forebay GSP is implemented consistent with this Agreement and complies with the requirements of SGMA, including, but without limitation, the sharing of information and data; agreement on common assumptions, methodologies, potential management actions, and potential projects; and development of a water budget.
3. Designation of Management Area. The Parties agree that the area set forth in the diagram attached hereto as Exhibit A and incorporated herein by reference has distinct hydrologic characteristics based on an agreed interpretation of the area conducted by the Parties’ respective technical experts from the remainder of the Forebay, and therefore may appropriately be managed as a management area pursuant to SGMA. The area set forth in Exhibit A is designated as the Arroyo Seco Cone Management Area (“ASCMA”). Subject to the terms of this Agreement, the Parties shall cooperate in the preparation of a single GSP for the Forebay subbasin, that the ASGSA shall implement in the ASCMA and the SVBGSA shall implement in the balance of the Forebay subbasin (each an “Implementation Area”), all as more fully set forth herein.

4. Implementation of the Forebay GSP.

a. Responsibility for Implementation. The SVBGSA Board of Directors shall have ultimate responsibility for the implementation of the Forebay GSP within the entire Forebay except within the jurisdictional area of the City of Greenfield, and the SVBGSA shall be the lead Party for communications with DWR and the State Water Resources Control Board regarding the Forebay GSP, however this does not preclude ASGSA from communications with DWR and the State Water Resources Control Board. Notwithstanding the foregoing, the Parties agree that the Board of Directors of each party shall have initial responsibility for the preparation and implementation of a single Forebay GSP within each respective Implementation Area.

b. Coordination Committee. There is established a Coordination Committee (“Committee”) in order to provide a forum for the Parties to consult on the progress of implementing the Forebay GSP and achieving sustainability in the Forebay and the Implementation Areas. The Committee shall also provide a forum for the Parties to discuss the implementation or elimination of management actions, projects or funding mechanisms in each Party’s Implementation Area to ensure that those actions do not negatively impact or impede the goal of sustainability as required by SGMA for the Forebay as a whole or individually in the Implementation Areas. The Committee shall consist of representatives of both Parties. Each Party shall designate up to two individuals to be members of the Committee including no more than two members of each Party’s Board of Directors, and such other staff and technical experts as each Party deems appropriate. The Committee shall not have decision-making authority but shall make recommendations to each respective Board of Directors.

The Committee shall be subject to the Brown Act, and each of the ASGSA and SVBGSA shall be responsible for providing notice of meetings as is provided for its Board of Directors. The Committee shall have a regular meeting at least once every calendar quarter unless as determined by the Chair there is no business to discuss. The Committee shall also meet as necessary as described below. For so long as the State’s proclamation of emergency for the COVID pandemic is effective, meetings of the Committee shall be held remotely, and the SVBGSA shall host the meetings via a remote conferencing service and provide a clerk for the purpose of keeping minutes. Following the termination of the COVID 19 pandemic emergency proclamation, meetings of the Committee shall alternate regularly between the location of regular meetings of the SVBGSA Board of Directors and the ASGSA Board of Directors. The host GSA of the Committee meeting shall provide a clerk for the purpose of keeping minutes.

The Chair of the Committee shall be a member designated by one GSA and the Vice-chair designated by the other GSA, and shall rotate annually, beginning in January of each calendar year, with the Chair being designated by the SVBGSA and the Vice-chair by the ASGSA in the first year. Agendas for Committee meetings shall be developed by consensus between the Chair, Vice-chair and General Managers of each GSA, but the Chair shall have final authority over the agenda.

The Committee may appoint ad hoc sub-committees not subject to the Brown Act as may be necessary or appropriate.

c. Information Sharing. The Parties hereby acknowledge and recognize the Parties will need to exchange information, and such exchange of information will be made through information requests to the Coordination Committee. Notwithstanding the foregoing, nothing in this Agreement shall be construed to prohibit any party from voluntarily exchanging information with any other party by any other mechanism separate from this Agreement.

d. Consultation on Implementation of the Forebay GSP and the Goal of Sustainability. The Committee shall, at least twice a calendar year during a regular meeting, discuss the progress of implementing the Forebay GSP overall and in the Implementation Areas, and achieving the goal of sustainability for the Forebay and the Implementation Areas. The Parties agree to share all information in the possession of each evidencing, relating to, or concerning the meeting and maintenance of minimum thresholds, and the avoidance of undesirable results, as described in the Forebay GSP, within the Forebay as a whole and within each Implementation Area. The Parties shall cooperate in the preparation of the annual report on the Forebay GSP as required by SGMA, which is to be reviewed and approved by the Board of Directors of each Party; however, SVBGSA shall be responsible for the timely submittal of the annual report to DWR. The Parties agree to timely share all information necessary for the preparation of the annual report, and the Committee shall discuss the content of the report prior to its transmission to DWR. The Committee shall also periodically discuss the need to update the Forebay GSP as required by SGMA and, if an update or modification is necessary or appropriate, make recommendations to each Board of Directors on the process for preparing the update or modification.

e. Consultation on Management Actions and Projects. The Parties agree to implement within each Implementation Area projects and management actions described in the Forebay GSP when and if necessary or appropriate. Should a Party determine that such project or management action needs to be implemented, it shall provide written notice to the other Party and request either that the matter be placed on the agenda for the next regular meeting of the Committee or that the Committee convene within thirty (30) days. The Committee shall discuss whether the project or management action is necessary to achieve sustainability for the Subbasin, and how and when the project or management action shall be implemented.

Should a Party desire to implement a management action or project, not described in the Forebay GSP, within its Implementation Area, the Party shall provide written notice to the other Party and request either that the matter be placed on the agenda for the next regular meeting of the Committee or that the Committee convene within thirty (30) days. The Committee shall discuss why the management action or project is necessary to achieve sustainability, how it shall be implemented, and whether its implementation would negatively impact the achievement of sustainability in the other Party's Implementation Area or in the Forebay Subbasin. Similarly, should a Party desire to eliminate a previously implemented management action or proposed project within its Implementation Area, whether or not described in the Forebay GSP, the Party shall provide written notice to the other Party and request either that the matter be placed on the agenda for the next regular meeting of the Committee or that the Committee convene within thirty (30) days. The Committee shall discuss why the management action or project should be

eliminated and whether its elimination would negatively impact the achievement of sustainability in the other Party's Implementation Area or in the Forebay Subbasin.

Upon giving notice as set forth above, the Chair and Vice-chair of the Committee shall consult and determine the date on which the requested meeting shall be held and the agenda. If a special meeting of the Committee is to be called, notice of such requested meeting shall be provided not less than seventy-two (72) hours prior to the meeting.

The consultation shall continue for as long as necessary and the meeting may be continued from time-to-time. Upon conclusion of the consultation as determined by the Committee, each Party's representatives shall report back to their respective Board of Directors for consideration. Each Board may express support or opposition for the management action or project; request further consultation; or, take no action.

Notwithstanding the position of the other Party as expressed by its Board of Directors, the Party proposing to implement or eliminate a management action or project may proceed with such action subject to Paragraph 6 of this Agreement.

f. Consultation on Proposed Regulations.

Recognizing that the ASGSA has no authority to impose regulatory requirements outside the jurisdictional boundaries of the City of Greenfield, the Parties agree that any regulation proposed by the SVBGSA shall be consistent with the Forebay GSP and subsequent updates within the ASCMA. Notwithstanding the foregoing, the SVBGSA may propose an applicable regulation should the ASGSA fail to meet or maintain minimum thresholds or avoid undesirable results pursuant to and consistent with Paragraph 6 below.

i. Regulations to be imposed in the entire Forebay Subbasin.

Should a Party propose that regulatory requirements, not constituting management actions (which are subject to paragraph 4 (e), above), be imposed within the entire Forebay Subbasin, including within the ASCMA but outside the jurisdictional boundaries of the City of Greenfield, the requesting Party shall provide written notice and a copy of the proposed regulations to the other Party, and request either that the matter be placed on the agenda for the next regular meeting of the Committee or that the Committee convene within thirty (30) days. The Committee shall discuss why the requested regulations are necessary and whether they would help achieve sustainability for the Forebay Subbasin, or impede or negatively impact that achievement.

Upon giving notice as set forth above, the Chair and Vice-chair of the Committee shall consult and determine the date on which the requested meeting shall be held and the agenda. If a special meeting of the Committee is to be called, notice of such requested meeting shall be provided not less than seventy-two (72) hours prior to the meeting.

The consultation shall continue for as long as necessary and the meeting may be continued from time-to-time. Upon conclusion of the consultation as determined by the Committee, each Party's representatives shall report back to their respective Board of Directors

for consideration. If the Board of Directors of the SVBGSA and the ASGSA mutual determine that the regulations be implemented, the Board of Directors of the SVBGSA shall take such steps as are necessary and appropriate to implement the proposed regulations. If such regulations are imposed, the SVBGSA shall defend and indemnify the ASGSA from any claim, lawsuit, liability, loss, injury or damage, including costs and attorney's fees ("losses"), arising out of, or in connection with the implementation of such regulations in the ASCMA, excepting therefrom losses arising out of or in connection with the sole negligence or willful misconduct of the ASGSA.

ii. Regulations to be imposed solely in the ASCMA. Should the ASGSA desire to impose any regulatory requirements not constituting management actions (which are subject to paragraph 4 (e), above) solely within the ASCMA and not in the Forebay Subbasin as a whole, but outside the jurisdictional boundaries of the City of Greenfield, the ASGSA shall provide written notice and a copy of the proposed regulations to the SVBGSA, and request either that the matter be placed on the agenda for the next regular meeting of the Committee or that the Committee convene within thirty (30) days. The Committee shall discuss why the requested regulations are necessary and whether they would help achieve sustainability for the Forebay Subbasin, or impede or negatively impact that achievement.

Upon giving notice as set forth above, the Chair and Vice-chair of the Committee shall consult and determine the date on which the requested meeting shall be held and the agenda. If a special meeting of the Committee is to be called, notice of such requested meeting shall be provided not less than seventy-two (72) hours prior to the meeting.

The consultation shall continue for as long as necessary, and the meeting may be continued from time-to-time. Upon conclusion of the consultation as determined by the Committee, each Party's representatives shall report back to their respective Board of Directors for consideration. If the Board of Directors of the SVBGSA and the ASGSA mutual determine that the regulations be implemented, the Board of Directors of the SVBGSA shall take such steps as are necessary and appropriate to implement the proposed regulations for the benefit of the ASGSA. If such regulations are imposed, the ASGSA shall defend and indemnify the SVBGSA from any claim, lawsuit, liability, loss, injury or damage, including costs and attorney's fees ("losses"), arising out of, or in connection with the implementation of such regulations in the ASCMA, excepting therefrom losses arising out of or in connection with the sole negligence or willful misconduct of the SVBGSA.

iii. Regulations to be imposed solely outside the ASCMA.

Should the SVBGSA desire to impose any regulatory requirements not constituting management actions (which are subject to paragraph 4 (e), above) solely outside the ASCMA and not in the Forebay Subbasin as a whole, but outside the jurisdictional boundaries of the City of Greenfield, the SVBGSA shall provide written notice and a copy of the proposed regulations to the ASGSA, and request either that the matter be placed on the agenda for the next regular meeting of the Committee or that the Committee convene within thirty (30) days. The Committee shall discuss why the requested regulations are necessary and whether they would

help achieve sustainability for the Forebay Subbasin, or impede or negatively impact that achievement.

Upon giving notice as set forth above, the Chair and Vice-chair of the Committee shall consult and determine the date on which the requested meeting shall be held and the agenda. If a special meeting of the Committee is to be called, notice of such requested meeting shall be provided not less than seventy-two (72) hours prior to the meeting.

The consultation shall continue for as long as necessary, and the meeting may be continued from time-to-time. Upon conclusion of the consultation as determined by the Committee, each Party's representatives shall report back to their respective Board of Directors for consideration. If the Board of Directors of the SVBGSA determines in its sole discretion that the proposed regulations should be implemented solely outside the ASCMA and not within the Forebay Subbasin as a whole, but outside the jurisdictional boundaries of the City of Greenfield, the Board of Directors of the SVBGSA shall take such steps as are necessary and appropriate to implement the proposed regulations. If such regulations are imposed, the SVBGSA shall defend and indemnify the ASGSA from any claim, lawsuit, liability, loss, injury or damage, including costs and attorney's fees ("losses"), arising out of, or in connection with the implementation of such regulations outside the ASCMA, excepting therefrom losses arising out of or in connection with the sole negligence or willful misconduct of the ASGSA.

g. Consultation on Finances and Funding Mechanisms.

Recognizing that the ASGSA has no authority to impose taxes, assessments or fees outside the jurisdictional boundaries of the City of Greenfield, the SVBGSA agrees to provide to the ASGSA a portion of the regulatory fee currently collected by the SVBGSA in the ASCMA to fund the operations of the ASGSA. The ASGSA agrees to implement revenue raising measures within the jurisdictional boundaries of the City of Greenfield to contribute to its annual operations at its sole discretion. The ASGSA will submit quarterly invoices for reimbursement to the SVBGSA for its administrative costs to implement the Forebay Subbasin GSP, but such reimbursement shall not exceed the amount of the regulatory fee collected within the boundaries of the ASCMA. The Committee shall discuss annually at a regular meeting in the first quarter of the calendar year the budgetary needs of both the SVBGSA and the ASGSA for their respective activities in implementing the Forebay GSP. The Committee shall endeavor to reach a consensus on the budgetary needs of both GSAs and what portion of the SVBGSA's regulatory fee should be transferred to the ASGSA.

In addition, should the ASGSA desire to implement a project set forth in the Forebay GSP within the ASCMA, upon consultation as provided in Paragraph 4., above, the SVBGSA will cooperate with the ASGSA on the implementation of any necessary funding mechanism to be imposed within the ASCMA outside the jurisdictional boundaries of the City of Greenfield, including but not limited to, a benefits assessment pursuant to Proposition 218 (California Constitution Article XIII C).

h. Consultation on Projects and Management Actions not set forth in the Forebay GSP.

Should a Party desire to implement a project or management action in its Implementation Area but that is not set forth in the Forebay GSP, the Party shall provide written notice to the other Party and request either that the matter be placed on the agenda for the next regular meeting of the Committee or that the Committee convene within thirty (30) days. The Committee shall discuss whether the management action or project is necessary to achieve sustainability, if, how and when it is to be implemented, and whether its implementation would negatively impact the achievement of sustainability in the other Party's Implementation Area or in the Forebay as a whole.

Upon giving notice as set forth above, the Chair and Vice-chair of the Committee shall consult and determine the date on which the requested meeting shall be held and the agenda. If a special meeting of the Committee is to be called, notice of such requested meeting shall be provided not less than seventy-two (72) hours prior to the meeting.

The consultation shall continue for as long as necessary, and the meeting may be continued from time-to-time. Upon conclusion of the consultation as determined by the Committee, each Party's representatives shall report back to their respective Board of Directors for consideration. Each Board may express support or opposition for the management action or project; request further consultation; or take no action.

Notwithstanding the position of the other Party as expressed by its Board of Directors, the Party proposing to implement a project or management action not set forth in the Forebay GSP may proceed with such action subject to Paragraph 6 of this Agreement.

5. Monitoring Network. The Parties agree to cooperate in the establishment and maintenance of a monitoring network in each Implementation Area that meets the requirements of SGMA and the Forebay GSP. Existing monitoring sources in the Forebay Subbasin will be considered by the Parties for inclusion in the monitoring network.

6. Failure to Meet or Maintain Minimum Thresholds or Avoid Undesirable Results. Following any periodic consultation required by Paragraph 4.d, above, should it appear to the SVBGSA or DWR, based on best available data and information, that minimum thresholds required by the Forebay GSP are not being met or maintained in the ASCMA, that undesirable results as set forth in the Forebay GSP are being experienced in the ASCMA, or that projects or management actions implemented in the ASCMA are preventing the greater Forebay from avoiding undesirable results, the SVBGSA and the ASGSA shall enter into consultation to address the undesirable results being experienced in the ASCMA. Should the consultation not result in corrective actions, the SVBGSA shall provide written notice to the ASGSA providing the ASGSA a reasonable time not exceeding five (5) years to take such actions, consistent with this Agreement, as are necessary or appropriate to meet and maintain minimum thresholds and avoid undesirable results, or if a regulation or amendments to the Forebay GSP are necessary to address conditions in the ASCMA. If, within the time designated in the notice, the ASCMA continues to experience undesirable results, or minimum thresholds are not or cannot be met or maintained, the ASGSA acknowledges that the SVBGSA may take any necessary management actions, projects, regulatory actions or modifications to the Forebay GSP as the SVBGSA deems

necessary or appropriate to address the condition of the ASCMA outside of the jurisdictional boundaries of the City of Greenfield, and the ASGSA shall implement those management actions, projects, regulatory actions or modifications to the Forebay GSP, subject to all other provisions of this Agreement. The SVBGSA and ASGSA shall continue to consult pursuant to the provisions of Paragraph 4, above, regarding the state of the ASCMA, the Forebay as a whole, and the management actions, projects and regulatory actions implemented by the SVBGSA pursuant to this Paragraph.

7. Dispute Resolution. In the event that any dispute arises between the Parties relating to this Agreement or the rights and obligations arising from this Agreement, the aggrieved Party shall provide written notice to the other Party of the dispute. Within thirty (30) days after such written notice, the Parties shall attempt in good faith to resolve the dispute through informal means. If the Parties cannot agree upon a resolution of the dispute within thirty (30) days from the written notice, the dispute may be submitted to DWR or voluntary mediation prior to commencement of any legal action. The cost of mediation shall be paid equally by the Parties. Upon completion of the mediation, if any, and if the controversy has not been resolved, either Party may exercise any and all rights to bring a legal action relating to the dispute.

8. Periodic Review. The Parties agree to periodically review this Agreement and consider any necessary or appropriate amendments. Such review shall occur at the request of a Party but at least every five (5) years consistent with the review of the Forebay GSP as required by SGMA. Any amendments to this Agreement must be in writing and approved by both Parties.

9. Elimination of GSA Boundary Overlap. Immediately upon full execution of this Agreement, the ASGSA will file with DWR a modified GSA filing with a map limiting the boundaries of its GSA to the jurisdictional boundaries of the City of Greenfield, thereby eliminating the overlap in GSA boundaries with the SVBGSA.

10. Defense and Indemnification. In addition to the specific defense and indemnification provisions of this Agreement, each Party shall defend and indemnify the other Party from any claim, lawsuit, liability, loss, injury or damage, including costs and attorney's fees ("losses"), arising out of, or in connection with the implementation by the indemnifying Party of management actions or projects within its Implementation Area, excepting therefrom losses arising out of or in connection with the sole negligence or willful misconduct of the Party to be indemnified.

11. Termination.

a. By Mutual Agreement.

This Agreement may be terminated by mutual agreement of the Parties.

b. By SVBGSA.

This Agreement may be terminated by the SVBGSA upon 180 days written notice to the ASGSA upon a determination by the SVBGSA, based on clear and convincing evidence, that the

ASGSA has failed to implement the management actions, projects, regulatory actions or modifications to the Forebay GSP required to be implemented as set forth in Paragraph 6, above, within the time allotted, or otherwise failed to comply with its obligations set forth in this Agreement. In the event of written notice of termination given to the ASGSA by the SVBGSA, the Parties shall meet and confer in good faith within the 180 day notice period to determine whether the Agreement should be terminated, but the SVBGSA shall retain discretion to determine that the Agreement should be terminated consistent with this Paragraph 11 (b), which decision shall be conveyed to the ASGSA no later than the end of the 180 day notice period. In the event of termination pursuant to this paragraph, the SVBGSA shall assume the sole and complete legislative and regulatory responsibility for the implementation of the Forebay GSP in areas outside the jurisdictional boundaries of the City of Greenfield unless the ASGSA has submitted an application to Monterey County Local Agency Formation Commission (“LAFCO”) to form a water district (“Application”), pursuant to Paragraph 12, prior to the end of the 180 day notice period. Should that occur, the SVBGSA shall allow this Agreement to be in effect until such time LAFCO makes a decision on the Application. Should the application be approved the parties shall negotiate in good faith for necessary or appropriate actions to make the ASGSA the exclusive GSA for the ASCMA. Should the Application be denied, SVBGSA shall assume sole and complete legislative and regulatory responsibility for the implementation of the Forebay GSP.

c. By ASGSA.

This Agreement may be terminated by the ASGSA upon 180-days written notice to the SVBGSA upon a determination by the ASGSA that the SVBGSA has failed to comply with its obligations set forth in this Agreement. In the event of written notice of termination given to the SVBGSA by the ASGSA, the Parties shall meet and confer in good faith within the 180-day notice period to determine whether the Agreement should be terminated, but the ASGSA shall retain sole discretion to determine that the Agreement should be terminated, which decision shall be conveyed to the SVBGSA no later than the end of the 180-day notice period. In the event of termination pursuant to this paragraph, the SVBGSA shall assume the sole and complete legislative and regulatory responsibility for the implementation of the Forebay GSP in areas outside the jurisdictional boundaries of the City of Greenfield unless the ASGSA has submitted an application to Monterey County Local Agency Formation Commission (“LAFCO”) to form a water district (“Application”), pursuant to Paragraph 12, prior to the end of the 180 day notice period. Should that occur, the SVBGSA shall allow this Agreement to be in effect until such time LAFCO makes a decision on the Application. Should the application be approved the parties shall negotiate in good faith for necessary or appropriate actions to make the ASGSA the exclusive GSA for the ASCMA. Should the Application be denied, SVBGSA shall assume sole and complete legislative and regulatory responsibility for the implementation of the Forebay GSP.

12. Formation of Water District or other GSA eligible entity. The ASGSA may seek to form a water district or other GSA eligible entity. If such entity is established as required by law, the Parties shall discuss in good faith establishing the newly formed entity as the GSA

within its jurisdictional boundary; however, nothing in this Agreement shall require the SVBGSA to agree to any such amendments or to establishing the newly formed entity as the GSA, and the SVBGSA retains sole discretion to so agree.

13. General Provisions.

a. No Assignment. Neither Party shall assign or transfer this Agreement, or any part thereof, without the written consent of the other Party.

b. Party Autonomy. Nothing in this Agreement shall be construed or interpreted to create or constitute a partnership, joint venture, agency or contract of employment between the Parties. Nothing in this Agreement in any way restricts the Parties, or any cooperating third parties, from participating in similar activities with other public or private agencies, organizations, and individuals or from implementing groundwater sustainability planning in accordance with SGMA provided, however, that such activities are not inconsistent with SGMA, the Forebay GSP or this Agreement.

c. No Authority to Bind. It is understood that each Party, in the exercise of any rights and the performance of any obligations under this Agreement, have no authority to bind the other Party to any agreements or undertakings with respect to any and all persons or entities with whom Parties deal in the course of business.

d. Proprietary and Preliminary Information. To the extent that any exchanged data, information, modeling, projects, estimates, plans, and other information are designated by a Party to be proprietary or preliminary (“Designated Information”), and not subject to public disclosure, the designating Party shall request that the Parties label the same as such. Each Party shall not disclose the Designated Information to any third party without prior written consent of the Party making the designation. The designating Party shall defend and indemnify the non-designating Party in any litigation alleging that the Designated Information is subject to public disclosure, such indemnification to include any costs and attorney’s fees.

e. Notices.

i. Notices permitted or required to be given to the respective Parties under this Agreement shall be deemed given (1) when personally delivered to the other Party care of the General Manager; (2) when personally delivered to the party's principal place of business during normal business hours (i.e., to the office of the SVBGSA in Salinas, California, or to the ASGSA in Greenfield, California), by leaving the notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; (3) 24 hours after the notice is transmitted by electronic mail or fax machine to the other party, to the fax number indicated below; or (4) 3 days after the notice is deposited in the U.S. mail (by first class, certified, registered, or express mail), with postage fully prepaid, addressed to the Party as indicated below.

ii. Notices mailed or delivered to the parties shall be addressed as follows:

| To SVBGSA:   | To ASGSA   |
|--|--|
| Donna Meyers, General Manager<br>P. O. Box 1350<br>Carmel Valley, CA 93924<br>meyersd@svbgsa.org | Curtis V. Weeks, General Manager<br>City of Greenfield<br>599 El Camino Real<br>P.O. Box 127<br>Greenfield, CA 93927<br>cweeks@arroyosecogsa.org |
|  |  |

iii. The mailing addresses and other information specified in paragraph ii may be changed by either party, by giving notice to the other in the manner provided herein.

f. Modifications. This Agreement may be modified or amended only by written agreement of the parties. No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the parties hereto.

g. Nonwaiver. No covenant or condition of this Agreement can be waived except by the written consent of both Parties. Forbearance or indulgence by either Party in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the other Party. The Parties shall be entitled to invoke any remedy available to them under this Agreement or by law or in equity despite said forbearance or indulgence.

h. Sole Agreement. This Agreement contains the entire agreement of the Parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this Agreement shall be of no force or effect excepting a subsequent modification in writing, signed by the Parties.

i. Negotiated Agreement. It is agreed and understood by the Parties that this Agreement has been arrived at through negotiation and that no Party is to be deemed the Party which prepared this Agreement within the meaning of Civil Code section 1654.

j. Severability. If any term or condition of this Agreement is determined to be unenforceable by a court of competent jurisdiction, it is the Parties' intent that the remaining provisions of this Agreement will remain in full force and effect to the extent that the unenforceable term or condition may be severed. Notwithstanding the foregoing, the Parties shall consider necessary or appropriate amendment to any such invalid provision so as to become valid and enforceable in a way that is most closely aligns with the Parties' intent.

k. Venue. If any party herein initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that venue thereof shall be the County of Monterey, State of California.


l. Construed Pursuant to California Law. The Parties agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California.

m. Execution in Counterparts. This Agreement may be executed in counterparts and by facsimile or electronic signature, and when joined together, the counterparts shall

constitute one agreement, which shall be binding on the parties, even though all signatures may not be on one original or the same counterpart.


n. Best, Good Faith Efforts. The Parties agree to exercise their best, good faith efforts to effectuate all terms and conditions of this Agreement and to execute any such instruments and documents as are reasonably necessary, appropriate or proper to carry out the intent and purposes of this Agreement.

SALINAS VALLEY BASIN  
GROUNDWATER SUSTAINABILITY AGENCY

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By \_\_\_\_\_  
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Donna Meyers  
General Manager


Dated: April 22, 2021

ARROYO SECO GROUNDWATER  
SUSTAINABILITY AGENCY


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By \_\_\_\_\_  
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Curtis V. Weeks  
General Manager

Dated: April 15, 2021

APPROVED AS TO FORM

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Leslie J. Girard  
Agency Counsel

APPROVED AS TO FORM

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Mary Lerner  
Agency Counsel