

# DRAFT Addendum No. 1 to SGMA Strategy: County Participation Preferences for GSA Agreements

The following Addendum No. 1 was adopted by the Board of Supervisors of the County of San Luis Obispo on [INSERT DATE IF APPROVED]. This Addendum No. 1 supplements the County's adopted SGMA Strategy, but does not supersede it.

## **Purpose of Addendum No. 1:**

*The purpose of this addendum is to set forth policy statements that provide partner entities and basin users with a better understanding of the County's intent regarding SGMA implementation, and allow County staff to more effectively represent County interests in the collaborative development of Groundwater Sustainability Agency (GSA) agreements for future consideration by the Board. The following policy statements are laid out individually, but are intended to be read comprehensively in order to understand the terms under which the County would support participating on any GSA.*

### **Policy Statement 1. Interests Potentially Represented by County on GSAs.**

**The County supports participating on a GSA in a basin in order to represent one or more of the following key roles and/or authorities:**

- **Interest 1:** Representation of County Service Area(s),
- **Interest 2:** Representation of otherwise unrepresented beneficial uses/ users of groundwater (e.g. rural domestic, agricultural, environmental, etc. as defined by SGMA),
- **Interest 3:** Land use authority,
- **Interest 4:** Well construction permitting authority, and/or
- **Interest 5:** Integration and alignment of the County's discrete management actions (e.g. groundwater export ordinance) to the GSA's basin-wide, comprehensive management actions.

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### **Policy Statement 2. County Preferences on Legal Agreement Type.**

**The County supports the agreement type that makes the best sense for a particular GSA, while protecting the County and interest(s) represented by the County to the greatest extent possible under the circumstances in the basin.**

- The County recognizes that the GSA agreement type selected will be driven by basin-specific needs and entity negotiations.
- Both Memoranda of Agreement (MOA) and Joint Powers Agreements (JPA) offer certain benefits and challenges.

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### **Policy Statement 3. County Preferences on Key Elements of GSA Agreements.**

**The County supports governance and finance strategies that are fair, equitable, and acceptable to potential partner entities and affected basin users, recognizing that "no one size fits all" and that agreement elements may vary with each basin.**

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## **Policy Statement 3a. Financial Strategies**

**The County, either as a partner on a GSA or on its own, supports pursuing a funding mechanism (subject to all applicable Constitutional and other legal requirements) supported by and funded by the affected landowners and/or extractors. Should long-term funding mechanisms for County SGMA costs not be approved by the affected landowners and /or extractors, the County would no longer be a GSA or GSA member.**

- The County acknowledges that basin users, as those subject to SGMA, should pay their fair share of SGMA compliance. The County supports evaluating and considering land use and/or pumping (to the extent known and/or that it can be estimated) to determine fair financial strategies, while minimizing costs to de minimis (domestic) extractors,<sup>1</sup> consistent with SGMA's treatment of said users.
- The County acknowledges that it may be challenging for GSAs to identify startup and ongoing funding sources. As such, the County advocates that GSAs pursue grants and other funding sources to the greatest extent feasible to offset local costs.
- Depending on the results of the November 1, 2016 Flood Control District Board's Budget Policy discussion, the County may pursue a loan from the Flood Control District to provide interim funding for GSA startup costs through 2018/19. It is intended that this funding would be reimbursed upon a successful Prop 218 proceeding, and/or identification of another funding source.
- Depending on the results of the November 1, 2016 Flood Control District Board's Budget Policy discussion, the Flood Control District may contribute funding towards initial funding proceedings and/or specific technical studies. If approved by the Flood Control District Board, the County supports negotiating use of that funding as a credit against any County cost share in GSA efforts.
- The County supports including agreement terms to allow member entity withdrawal and/or GSA termination, should the GSA be unsuccessful in identifying ongoing funding sources and/or in securing independent funding through a Prop 218 proceeding.

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## **Policy Statement 3b. Membership and Participation on Governing Boards**

**The County supports 1) fair and equitable representation in decision making processes of GSAs that include participation by the County and/or an alternative, stakeholder-driven eligible entity, and 2) adequate consultation between any GSA efforts and related County authorities and/or planning/ management efforts.**

- To the extent that eligible entities and basin users are supportive of the County's involvement in SGMA implementation, the County would intend to join a GSA to represent any and all of the interests identified in Policy Statement 1 (above) in a manner consistent with other Policy Statements.
- The County acknowledges that landowners and/or registered voters may prefer to form an eligible entity to ensure their representation on a GSA. The County supports landowner- and registered-voter-driven eligible entity formation processes. As such, if an eligible entity is formed by December 31, 2017, the County may decide (in consultation

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<sup>1</sup> Water Code Section 10721 (e) "De minimis extractor" means a person who extracts, for domestic purposes, two acre-feet or less per year.

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- with such agency and the other participants in the GSA) that it no longer needs to participate in the GSA (depending on e.g. the boundary of the newly formed agency).
- The County advocates for fair and equitable representation in the decision-making process (relating to Interests 1 and 2), and adequate consultation with the County as GSA efforts relate to County authorities, and planning/ management efforts (relating to Interests 3, 4, and 5).
  - Fair and equitable representation could be accomplished in a number of ways, such as through inclusion of appointed seats on a GSA board for certain beneficial user interests<sup>2</sup> (e.g. domestic well users, agricultural users, environmental users of groundwater), or through a robust public process and formation of representative advisory committees, and should be negotiated by the eligible entities in each basin.
  - Adequate consultation can be accomplished by a GSA's close coordination with the appropriate County processes (e.g. participation in and review of updates to the County General Plan).
  - Significant GSA decisions should require a greater majority vote.
  - For basins where the County is one partner on a multi-agency GSA/GSP effort; GSAs should use third party staff and resources to develop and implement GSPs, to the greatest extent possible. This will allow each entity's interest to remain independent during GSP development.
  - For basins where the County is the sole acting GSA, County staff could act as staff to the GSA, to the extent there are staff and resources to do so.

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<sup>2</sup> Water Code Section 10723.2 "The groundwater sustainability agency shall consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing groundwater sustainability plans. These interests include, but are not limited to, all of the following: interests include, but are not limited to, all of the following: (a) Holders of overlying groundwater rights, including (1) Agricultural users. (2) Domestic well owners. (b) Municipal well operators. (c) Public water systems. (d) Local land use planning agencies. (e) Environmental users of groundwater. (f) Surface water users, if there is a hydrologic connection between surface and groundwater bodies. (g) The federal government... (h) California Native American tribes. (i) Disadvantaged communities.... (j) Entities ...that are monitoring and reporting groundwater elevations..."