

**SPECIAL MEETING AGENDA**

**September 22, 2020**

**2:00 PM**

County of Merced Board Chambers, Third Floor  
2222 M Street, Merced, CA

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Bob Kelley, Stevinson Water District

Chair

Nic Marchini, Western White Area Representative

Vice Chair

George Park, Lone Tree Mutual Water Company  
Lloyd Pareira, County of Merced

Kole Upton, Le Grand-Athlone Water District  
Michael Gallo, Eastern White Area Representative

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**1. CALL TO ORDER/ROLL CALL**

**2. PLEDGE OF ALLEGIANCE**

**3. PUBLIC COMMENT PERIOD**

Public opportunity to speak on any matter of public interest within the Board's jurisdiction including items on the Board's agenda. Testimony limited to three minutes per person.

**4. COST SHARE AGREEMENT FOR WATER RIGHTS APPLICATION**

Action to approve the Cost Sharing Agreement for Water Right Application and authorize for payment of initial cost-reimbursement requests from MID as stipulated under the MID Agreement.

**5. AMSTERDAM WATER DISTRICT**

Action to approve the inclusion of the Amsterdam Water District (AWD) to become a non-voting, non-paying member of the Merced Subbasin Groundwater Sustainability Agency Joint Powers Agreement (JPA), as allowed under the provisions of the JPA and, upon execution by AWD of the acknowledgment form provided to them, and authorize the Board Chair to countersign the acknowledgment form.

**6. CONTRACT FOR SUSTAINABILITY ZONES DEVELOPMENT**

Action to authorize the Board Chair to execute a sole-source contract for requested consulting services with a selected consultant for the Sustainability Zone Investigation Project, to be completed by December 30, 2020, and not to exceed \$20,000.

**7. NEXT REGULAR MEETING**

October 8, 2020

**8. ADJOURNMENT**



Alternate formats of this agenda will be made available upon request by qualified individuals with disabilities. Appropriate interpretive services for this meeting will be provided if feasible upon advance request by qualified individuals with disabilities. Please contact the Secretary at (209) 385-7654 for assistance and allow sufficient time to process and respond to your request. Copies of agendas and minutes will be available at the Merced County Community and Economic Development Department and at [www.countyofmerced.com/MercedSubbasinGSA](http://www.countyofmerced.com/MercedSubbasinGSA).

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: SEPTEMBER 22, 2020**

**SUBJECT: COST SHARE AGREEMENT FOR WATER RIGHTS APPLICATION**

### **SUMMARY:**

The Merced Subbasin GSA (“MSGSA”) has previously approved and executed the Acquisition of Certain Flood Flow Water Rights and Water Supply (“MID Agreement”) with the Merced Irrigation District (“MID”) to pursue a water right application for flood waters on various streams in Merced County (“Application”). The Application is currently pending before the State Water Resources Control Board (SWRCB).

The MID Agreement stipulated that MSGSA and Turner Island GSA assume one half of the costs of pursuing the Application. An agreement regarding the cost sharing has been prepared by MSGSA, water entities that are within MSGSA, and Turner Island GSA that defines the distribution of the cost obligations defined in the MID Agreement.

The MSGSA will be responsible for 28.33% of the obligation stipulated in the MID Agreement (e.g. 28.33% of 50%). The other parties to the agreement will be responsible for the remaining 71.67% of the costs the parties will collectively be responsible for per the MID Agreement.

MID has already incurred significant expenses in excess of \$500,000 simply as the application fee paid to the SWRCB. Upon execution of this agreement by all parties, including the MSGSA, and submittal to MID of said agreement, MID will request payment for our parties’ obligation of costs already incurred. The budget approved by MSGSA at a recent meeting anticipated these expenses.

### **REQUEST/RECOMMENDATION/ACTION NEEDED:**

Action to approve the Cost Sharing Agreement for Water Right Application and authorization for payment of initial cost-reimbursement requests from MID as stipulated under the MID Agreement.

**COST SHARING AGREEMENT  
FOR WATER RIGHT APPLICATION**

This COST SHARING AGREEMENT FOR WATER RIGHT APPLICATION (“**Agreement**”) is entered into this \_\_\_\_ day of September, 2020 by and among the Merced Subbasin Groundwater Sustainability Agency, Turner Island Water District Groundwater Sustainability Agency-1, Le Grand-Athlone Water District, Plainsburg Irrigation District, Amsterdam Water District, Sandy Mush Mutual Water Company, La Paloma Mutual Water Company, and Lone Tree Mutual Water Company. The Parties to this Agreement may be collectively referred to as the Parties, individually as Party or more than one Party but less than all Parties as Party(s).

**1. RECITALS**

A. The Parties are entering into that Agreement Regarding the Acquisition of Certain Flood Flow Water Rights and Water Supply (“**MID Agreement**”) with the Merced Irrigation District (“**MID**”) to pursue a water right application for flood waters on various streams in Merced County (“**Application**”).

B. The MID Agreement requires that the Parties assume one half of the costs of pursuing the Application, and requires the Parties to determine how to distribute, collect and provide to MID their respective percentages of cost.

C. The purpose of this Agreement is to set forth the allocation of costs among the Parties to this Agreement for purposes of the MID Agreement.

2. Agreement. The Parties agree that term “Project” as used in this Agreement shall include all costs allocated to the Parties per the MID Agreement.

3. Cost Sharing. Each party shall bear the share of Project costs in the following percentage allocations:

<b>Party</b>	<b>Percentage</b>
Plainsburg Irrigation District	2.00
Lone Tree Mutual Water Company	3.64
Turner Island Water District	5.36
Amsterdam Water District	11.02
LeGrand-Athlone Water District	19.58
Sandy Mush Mutual Water company	17.12
La Paloma Mutual Water Company	12.95
Merced Subbasin Groundwater Sustainability Agency	28.33

4. Billing and Payment. Upon execution the Parties will share this Agreement with MID, and ask MID to bill each Party according to the Cost Sharing percentages set forth in this Agreement, consistent with the MID Agreement. Each Party shall pay amount due within the timeline set forth in the MID Agreement. Parties paying late shall be responsible for the administrative fee and interest imposed by MID pursuant to the MID Agreement, as apportioned among any and all such Parties.

5. Continuing Obligation. The cost sharing obligations contained in this Agreement shall remain a continuing obligation of the Parties, until paid in full.

6. **REASSESSMENT AND TRUE UP.** The Parties agree to reassess the cost share percentages in this Agreement after two (2) years. The Parties all agree to conduct a "true up" mid-way or at the end of the Project (5 or 10 years) to reevaluate the amount of water available to each Party, in an attempt to insure that Parties that will not receive water should not have to fund that portion of the costs and costs may be reimbursed to reflect the actual water available under the water right. Nevertheless, the Parties acknowledge that there is some risk associated with the Project, and no Party should anticipate that they would be fully refunded their cost share at the end of the True Up. In particular, the Parties acknowledge that reimbursement of the application fee and original engineering costs due to MID will be paid by all parties, and will not be subject to any True Up.

7. **TERMINATION.** Consistent with the MID Agreement, any Party may terminate their interest in this Agreement upon ten (10) days prior written notice to the other Parties provided that the withdrawing Party will remain responsible for its proportionate share of any obligation or liability duly incurred by the Parties prior to withdrawal. If a Party desires to withdraw from this Agreement, that Party shall be obligated to first withdraw from the Application and to terminate their participation in the MID Agreement. Failure to do so shall result in the Party remaining in this Agreement.

8. **MISCELLANEOUS.**

A. Entire Agreement. This Agreement and the MID Agreement represents the entire agreement among the Parties and supersedes all prior negotiations, representation or agreements, whether written or oral on the subject matter herein. No changes, additions or deletions, alterations or modifications of the terms and conditions of this Agreement shall be made without the written consent of all Parties to this Agreement.

B. Notices. Any notice or communication required here under shall be given in the manner specified in the MID Agreement.

C. Authority. By signing below, each Party represents that they have the authority of their respective agency to execute and carry out the terms of this Agreement.

D. Counterparts. This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original. All such counterparts shall together constitute but one and the same instrument.

BY SIGNATURE BELOW THE PARTIES SIGNIFY THEIR AGREEMENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY

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

Date: \_\_\_\_\_, 2020

LE GRAND ATHLONE WATER DISTRICT

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

Date: \_\_\_\_\_, 2020

PLAINSBURG IRRIGATION DISTRICT

By: \_\_\_\_\_  
General Manager

Date: \_\_\_\_\_, 2020

SANDY MUSH MUTUAL WATER COMPANY

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

Date: \_\_\_\_\_, 2020

TURNER ISLAND WATER DISTRICT  
GROUNDWATER SUSTAINABILITY AGENCY-1

By: \_\_\_\_\_  
General Manager

Date: \_\_\_\_\_, 2020

AMSTERDAM WATER DISTRICT

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

Date: \_\_\_\_\_, 2020

LA PALOMA MUTUAL WATER COMPANY

By: \_\_\_\_\_  
General Manager

Date: \_\_\_\_\_, 2020

LONE TREE MUTUAL WATER COMPANY

By: \_\_\_\_\_  
General Manager

Date: \_\_\_\_\_, 2020

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: SEPTEMBER 22, 2020**

**SUBJECT: AMSTERDAM WATER DISTRICT**

### **SUMMARY:**

The Amsterdam Water District is requesting to become a member of the GSA. AWD has mentioned that they do not expect a seat on the Board, but they do want the opportunity to have a seat on the board in the future. Under the current Joint Powers Agreement creating the GSA, there are only two options for membership:

1. Section 14.2, which provides for new voting members:  
Additional parties may join this agreement and become a Member provided that the prospective new member, (a) is eligible to enter into a joint powers agreement pursuant to the Government Code, (b) is eligible to join a GSA as provided by the Act, (c) receives an affirmative vote from a majority of the Governing Board, (d) pays all previously incurred costs that the Governing Board determines have resulted in benefit to their agency, (e) pays all applicable fees and charges, and (f) agrees in writing to the terms and conditions of this Agreement.
  
2. Section 14.3, which provides for non-voting members:  
Parties may join this Agreement as non-voting members provided that the prospective non-voting member, (a) is eligible to enter into a joint powers agreement pursuant to the Government Code, (b) is eligible to join a GSA, (c) receives an affirmative vote from a majority of the governing board, and (d) agrees in writing to the terms and conditions of this Agreement. Non-voting members shall not have the power to vote on any action to be taken by the agency or to become an officer of the Agency. Non-voting members shall not be required to contribute financially to the Agency. The County of Mariposa shall be the initial non-voting members of the Agency.

The triggering events under either section are (1) majority vote of the Governing Board, and (2) written consent by AWD to the terms of the JPA Agreement.

If AWD is allowed to join as a voting member, either the Board would have to be expanded to add a seat, or the current categories of board seats would have to be expanded. A third alternative is to have two board seats comprised of rotating members of the five districts: Stevenson Water District, Merquin County Water District, Le Grand-Athlone Water District, Plainsburg Irrigation District, and Amsterdam Water District. We could amend the JPA to establish this.

Finally, a compromise position may be to add AWD temporarily as a non-voting, non-paying member, then when another water district is formed in the future and wants to join the GSA, those two can rotate on a new board seat, bringing the board to 7 members. At that time AWD and the new district would pay a proportion equal to any non-reimbursed amounts that the other members have paid into GSA contributions since 2017.

### **REQUEST/RECOMMENDATION/ACTION NEEDED:**

Approval of the inclusion of Amsterdam Water District (AWD) to become a non-voting, non-paying member of the Merced Subbasin Groundwater Sustainability Agency Joint Powers Agreement (JPA), as allowed under the provisions of the JPA and, upon execution by AWD of the acknowledgement form provided to them, authorization the Board Chair to countersign the acknowledgement form.

**ACKNOWLEDGEMENT OF AMSTERDAM WATER DISTRICT  
TO JOINT POWERS AGREEMENT CREATING THE  
MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY**

WHEREAS, Amsterdam Water District (“**AWD**”) has requested to become a non-voting member of the Merced Subbasin Groundwater Sustainability Agency (“**MSGSA**”).

WHEREAS, MSGSA was formed by a Joint Powers Agreement dated January 2, 2017 by and among Plainsburg Irrigation District, Le Grand-Athlone Water District, Stevinson Water district, Merquin County Water District, Mariposa County, and Merced County (“**JPA Agreement**”).

WHEREAS, the JPA Agreement provides in Section 14.3 that parties may join MSGSA as non-voting members provided that the proposed non-voting member (a) is eligible to enter into a joint powers agreement pursuant to the Government Code, (b) is eligible to join a Groundwater Sustainability Agency (“**GSA**”) pursuant to the Sustainable Groundwater Management Act (“**SGMA**”), (c) receives an affirmative vote from a majority of the Governing Board of the MSGSA, and (d) agrees in writing to the terms and conditions of the JPA Agreement.

WHEREAS, AWD has requested to become a non-voting member of the MSGSA.

WHEREAS, AWD is eligible to enter into a joint powers agreement pursuant to the Government Code, and is eligible to join be a GSA pursuant to SGMA.

WHEREAS, the Governing Board of the MSGSA affirmatively voted to allow AWD to join MSGSA as a non-voting member at its meeting held September 22, 2020.

NOW THEREFORE, the parties agree, and AWD acknowledges as follows:

1. AWD hereby agrees that it is familiar with the terms of the JPA Agreement, and agrees to be bound by the terms and conditions of the JPA Agreement as a non-voting member of the MSGSA pursuant to Section 14.3 of the JPA Agreement.
2. Based upon the foregoing representation and agreement, and by its vote mentioned above, MSGSA hereby agrees to add AWD as a non-voting members of the MSGSA.

**MERCED SUBBASIN GROUNDWATER  
SUSTAINABILITY AGENCY**

**AMSTERDAM WATER DISTRICT**

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

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

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

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

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

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

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: SEPTEMBER 22, 2020**

**SUBJECT: SUSTAINABILITY ZONE INVESTIGATION PROJECT**

### **SUMMARY:**

As defined in the Merced Subbasin Groundwater Sustainability Plan (“GSP”), the Merced Subbasin GSA (“MSGSA”) will need to undertake a combination of projects and management actions, where the management actions will include reducing the overall consumptive use of groundwater by users within the MSGSA boundary. The MSGSA is in the early stages of formulating approaches to achieve necessary demand reduction, but recognizes implementation may require variations for the unique areas within the geographically broad and disperse MSGSA boundary.

In anticipation of that need, the MSGSA is seeking a consultant to investigate and provide feedback on various options that may result in two or more “Sustainability Zones” that could facilitate GSP implementation within the MSGSA. This term is specifically different than the term “management areas” as used in SGMA regulations as the MSGSA does not believe such areas as defined in SGMA would be warranted.

The anticipated outcome would be a presentation to the MSGSA Board presenting several options, the basis for the options, and tradeoffs, and participate in a discussion with the Board and staff. The consultant would be expected to produce a brief memo, focused mainly on presenting maps detailing the options. Factors expected to be considered may include, but are not limited to:

- cropping and land uses
- geopolitical boundaries
- groundwater levels and hydrogeologic conditions
- availability and source of water supplies
- subsidence concerns
- opportunities for recharge
- water quality

The consultant would be expected to have local knowledge of the Merced subbasin, GIS capabilities, and technical and practical expertise regarding the suggested factors.

### **REQUEST/RECOMMENDATION/ACTION NEEDED:**

Authorization for the MSGSA Board Chair to execute a sole-source contract for requested consulting services with a selected consultant for the Sustainability Zone Investigation Project, to be completed by December 30, 2020, and not to exceed \$20,000.