

**AGENDA
GROUNDWATER BANKING JOINT POWERS AUTHORITY
SPECIAL FINANCE COMMITTEE MEETING**

March 12, 2021
1:00 PM

Due to COVID-19, this meeting will be conducted as a teleconference pursuant to the provisions of the Governor's Executive Orders N-25-20 and N-29-20, which suspend certain requirements of the Ralph M. Brown Act. Members of the public may not attend this meeting in person.

Participation by members of the Committee will be from remote locations. Public access and participation will only be available telephonically/electronically.

To virtually attend the meeting and to be able to view any presentations or additional materials provided at the meeting, please join online using the link and information below:

Via Web: <https://zoom.us/j/89518802137>
Meeting Number (Access Code): 895 1880 2137
Meeting Password: 467044
Telephone Dial In: (669) 900-6833

As courtesy to the other participants, please mute your phone when you are not speaking.

PLEASE NOTE: Participants joining the meeting will be placed into the lobby when the Committee enters closed session. Participants who remain in the "lobby" will automatically be returned to the open session of the Committee once the closed session has concluded. Participants who join the meeting while the Committee is in closed session will be placed in the waiting room. When the Committee has returned to open session, the participants will be automatically added to the meeting.

CALL TO ORDER 1:00 PM

ROLL CALL Peer Swan, Roy Pierucci, Cheryl Clary

PUBLIC COMMENT NOTICE

If you wish to address the Committee on any item, please submit a request to speak via the "chat" feature available when joining the meeting virtually. Remarks are limited to three minutes per speaker on each subject. You may also submit a public comment in advance of the meeting by emailing mmisuraca@rrbwsd.com before 5:00 pm. on Monday, March 11, 2021.

ALL VOTES SHALL BE TAKEN BY A ROLL CALL VOTE.

- 1. Reconciliation Update (Cheryl/Megan)**
- 2. Consideration and Possible Action of Auditors Proposal for FYE 2021 Audit (Cheryl)**
- 3. Consideration and Possible Action on the Adoption of Investment Policy (Rob)**
- 4. Consideration and Possible Action on the Adoption of Professional Services Agreement (Fiona)**
- 5. Consideration and Possible Action on the Adoption of Shared Services Agreement (Dan)**
- 6. GM Report (Dan/Doug)**
 - i. Status of JPA Formation Tasks**

Availability of agenda materials: Agenda exhibits and other writings that are disclosable public records distributed to all or a majority of the members of the above-named Committee in connection with a matter subject to discussion or consideration at an open meeting of the Committee are available for public inspection by contacting Megan Misuraca at mmisuraca@rrbwsd.com. If such writings are distributed to members of the Committee less than 72 hours prior to the meeting, they will be available to the public at the same time as they are distributed to Committee Members, except that if such writings are distributed one hour prior to, or during, the meeting, they will be available electronically during the meeting.

Accommodations: Upon request, the Committee will provide for written agenda materials in appropriate alternative formats, and reasonable disability-related modification or accommodation to enable individuals with disabilities to participate in and provide comments at the meeting. Please submit a request, including your name, phone number and/or email address, and a description of the modification, accommodation, or alternative format requested at least two days before the meeting. Requests should be emailed to mmisuraca@rrbwsd.com. Requests made by mail must be received at least two days before the meeting. Requests will be granted whenever possible and resolved in favor of accessibility.

GBJPA Initial Reconciliation

DISCUSSION:

Certain costs were incurred by the Rosedale-Rio Bravo Water Storage District (RRB) and the Irvine Ranch Water District (IRWD) prior to the formation of the Groundwater Banking Joint Powers Authority (GBJPA) and subsequent to the formation but prior to establishment of the GBJPA bank account with the ability to pay GBJPA related expenditures. Pursuant to Section 10b (1) of the Bylaws of the GBJPA and the Cost Sharing Early Planning Activities Agreement between the two agencies, the agencies agreed to an initial reconciliation to true up expenditures in which each agency would be responsible for an equal share.

Staff has completed the reconciliation which is attached as "Exhibit A". The reconciliation represents a true up of expenses paid by each agency from the early planning activities beginning in 2018 through December 31, 2021. The reconciliation includes the following expenses:

- Labor charges related to GBJPA activities based on actual hourly rates
- Overhead applied to labor at the agreed upon rate of 63.9%
- Consultant expenses
- Joint legal costs
- Conference expenses

The reconciliation reflects a final true up of \$230,629.24 due from RRB to IRWD. It is expected that all subsequent GBJPA expenses will be paid from the GBJPA bank account.

RECOMMENDATION:

That the Committee review and recommend Board approval of the GBJPA initial reconciliation.

LIST OF EXHIBITS:

Exhibit "A" – GBJPA Initial Reconciliation

Groundwater Banking Joint Powers Authority
Reconciliation Update
For The Period April 2018 thru December 31, 2020

Capital Costs

| | GBJPA Total | IRWD 50% | RRB 50% |
|---|-----------------------|-----------------------|---------------------|
| 1st Billing from IRWD (4/1/18 - 6/30/20) | | | |
| Consulting Costs | \$344,006.68 | \$172,003.34 | \$172,003.34 |
| Total - 1st billing from IRWD (4/1/18 - 6/30/20) | 344,006.68 | 172,003.34 | 172,003.34 |
| Cost from IRWD (3/1/18 - 12/31/20): | | | |
| Consulting Costs (inclgd two invoices -Jan~Feb 2021) | 423,302.69 | 211,651.35 | 211,651.34 |
| Legal Costs | 60,205.00 | 30,102.50 | 30,102.50 |
| Conference Costs | 5,842.63 | 2,921.31 | 2,921.32 |
| Labor Costs | 187,438.52 | 93,719.26 | 93,719.26 |
| G & A Costs @ 63.9% | 119,773.21 | 59,886.61 | 59,886.60 |
| Total Cost paid by IRWD (3/1/18 - 12/31/20) | 796,562.05 | 398,281.03 | 398,281.02 |
| Cost from RRB (10/1/18 - 12/31/20): | | | |
| Consulting Costs | 146,092.28 | 73,046.14 | 73,046.14 |
| Labor Costs | 115,443.13 | 57,721.56 | 57,721.57 |
| G & A Costs @ 63.9% | 73,768.16 | 36,884.08 | 36,884.08 |
| Total Cost paid by RRB(10/1/18 - 12/31/20) | 335,303.57 | 167,651.78 | 167,651.79 |
| Total - Capital Costs | \$1,475,872.30 | \$737,936.15 | \$737,936.15 |
| Payments: | | | |
| 1st Billing from IRWD | (344,006.68) | (172,003.34) | (172,003.34) |
| Cost from IRWD (3/1/18-12/31/20) | (796,562.05) | (796,562.05) | |
| Cost from RRB(10/1/18-12/31/20) | (335,303.57) | | (335,303.57) |
| (Receivable)/Due | \$0.00 | (\$230,629.24) | \$230,629.24 |

March 12, 2021
Prepared by: Cheryl Clary
Agenda Item: 2

Recommendation of Independent Audit Firm

DISCUSSION:

Section 9b of the Bylaws of the GBJPA states that the Board of Directors shall select an Auditor in the manner provided by law. California government code Section 6505 requires Joint Power Authorities to have an annual independent audit and have the audited financial statements available on their Commission website.

Staff solicited a proposal, attached as "Exhibit A", from the existing auditor of the Irvine Ranch Water District (IRWD), Davis Farr, LLP. The proposal is for the fiscal year ended June 30, 2021 and an estimated fixed price fee of \$5,000. Staff is familiar with Davis Farr, LLP and recommends them due to their professionalism and partner and staff competency. In addition, they are familiar and work well with IRWD staff and are proposing the same audit partner on the GBJPA as the IRWD engagement. Davis Farr is also the current auditor of one of the other Joint Power Authorities, Santiago Aqueduct Commission, of which IRWD is a member.

RECOMMENDATION:

That the Committee recommend Board approval of the firm Davis Farr, LLP to perform the audit for the fiscal year ended June 30, 2021.

LIST OF EXHIBITS:

Exhibit "A" – Davis Farr proposal

February 5, 2021

Groundwater Banking Joint Powers Authority
15600 Sand Canyon Avenue
Irvine, CA 92618

We are pleased to confirm the arrangements of our engagement and the nature of the services we will provide the Groundwater Banking Joint Powers Authority (the "Entity").

ENGAGEMENT OBJECTIVES

We will audit the financial statements as of June 30, 2021 and for the year then ended, and the related notes to the financial statements.

Accounting Standards generally accepted in the United States of America ("US GAAP") provide for certain required supplementary information ("RSI"), such as management's discussion and analysis ("MD&A"), to supplement the Entity's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Government Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Entity's RSI in accordance with auditing standards generally accepted in the United States of America ("US GAAS"). These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by US GAAP and will be subjected to certain limited procedures but will not be audited.

1. Management's Discussion and Analysis

OUR RESPONSIBILITIES

The objective of our audit is the expression of an opinion as to whether the financial statements are fairly presented, in all material respects, in conformity with US GAAP and to report on the fairness of the additional information referred to above when considered in relation to the financial statements taken as a whole.

We will also provide a report, which does not include an opinion on, Internal controls related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance which could have a material effect on the financial statements as required by *Government Auditing Standards*. The report on internal control and compliance will each include a paragraph that states the report is solely to describe the scope and testing of internal control over financial reporting and compliance, and the results of that testing and not to provide an opinion on the effectiveness of internal control over

financial reporting or on compliance and the results of that testing and not to provide an opinion on the effectiveness of internal control over financial reporting or on compliance and that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering internal control over financial reporting and compliance and that the report is not suitable for any other purpose.

Audit

Our audit will be conducted in accordance with US GAAS, the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our audit will include tests of the accounting records and other procedures we consider necessary to enable us to express such an opinion and render the required reports. We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion or add an emphasis-of-matter or other-matter paragraph. If, for any reason, we are unable to complete the audit, or are unable to form or have not formed an opinion, we may decline to express an opinion or withdraw from this engagement.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts (e.g., tests of the physical existence of inventories, direct confirmation of certain assets and liabilities by correspondence with selected customers, creditors, and financial institutions, etc.). We may also request written representations from the Entity's attorneys as part of the engagement, and they may bill the Entity for responding to this inquiry.

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from errors, fraudulent financial reporting, misappropriation of assets, or violations of laws or governmental regulations that are attributable to the Entity or to acts by management or employees acting on behalf of the Entity.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal controls, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with US GAAS. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. We will inform the appropriate level of management and those charged with governance of any material errors, fraudulent financial reporting, or misappropriation of assets that comes to our attention. We will also inform the appropriate level of management and those charged with governance of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and any material abuse that comes to our attention. Our responsibility, as auditors, is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and Government Auditing Standards.

Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Entity's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The services described above do not relieve management or those charged with governance of their responsibilities.

THOSE CHARGED WITH GOVERNANCE

The preparation and presentation of the financial statements of the Entity are the responsibility of management with oversight from those charged with governance. Those charged with governance are also responsible for overseeing the strategic direction of the Entity and any obligations related to its accountability, resolving disagreements between management and us regarding financial reporting, appointing us to perform the services described above, and informing us about all known or suspected fraud involving the Entity. In turn, we will provide those charged with governance with any communications required by the professional standards described above.

MANAGEMENT'S RESPONSIBILITIES

Management is responsible for all management decisions and performing all management functions, and for designating an individual, preferably from senior management, with suitable skill, knowledge, or experience to oversee these services, any bookkeeping services, tax services, or other services we provide. Management is responsible for evaluating the adequacy and results of the services performed and accepting responsibility for them.

Management is responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. Management is also responsible for providing us with (a) access to all information they are aware of that is relevant to the preparation and fair presentation of the financial statements, (b) additional information that we may request for the purpose of this engagement, and (c) unrestricted access to persons within the Entity from whom we determine it necessary to obtain information.

Management is responsible for establishing and maintaining internal controls, including monitoring ongoing activities, for the selection and application of accounting principles, for the safeguarding of assets, and for the preparation and fair presentation of the financial statements in conformity with US GAAP even though we may assist management with their preparation. Accordingly, management may be required to acknowledge in the written representation letter our assistance with preparation of the financial statements and that management has reviewed and approved the financial statements and related notes prior to their issuance and has accepted responsibility for them.

Management is responsible for adjusting the financial statements to correct material misstatements and for confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

Management is responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the Entity involving (a) management, (b) employees who have significant roles in internal controls, and (c) others where the fraud could have a material effect on the financial statements. Management is also responsible for informing us of any known allegations of fraud or suspected fraud affecting the Entity received in communications from employees, former employees, regulators, or others. In addition, management is also responsible for identifying and ensuring that the Entity complies with applicable laws, regulations, contracts, agreements, and grants and for taking timely and appropriate steps to remedy any fraud, illegal acts, violations of contracts or grant agreements, or abuse that we may report.

During the course of our engagement, we will request information and explanations from management regarding the Entity. At the conclusion of our engagement, we will require, as a precondition to the issuance of our report, that management provide certain representations in a written representation letter. The procedures we will perform in our engagement and the conclusions we reach as a basis for our report will be heavily influenced by the written and oral representations that we receive from management. In view of the foregoing, the Entity agrees to release our firm, its shareholders, and other personnel from any liability and costs relating to our services under this letter resulting from false or misleading representations made to us by any member of the Entity's management.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits or other related studies. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. Management is responsible for providing its views on our current findings, conclusions, and recommendations, as well as management's planned corrective actions, for the report, and for the timing and format for providing that information.

ENGAGEMENT FEES

We estimate that our fixed fees for the services previously outlined will be \$ 5,000.

Additionally, our fees are dependent on the availability, quality, and completeness of the Entity's records and, where applicable, upon the Entity's personnel providing the level of assistance identified in the "prepared by client" request list distributed at the end of our planning work (e.g., Entity employees preparing confirmations and schedules we request, locating documents selected by us for testing, etc.).

Should our assumptions with respect to these matters be incorrect, or should the condition of the records, degree of cooperation, or other matters beyond our reasonable control require additional commitments by us beyond those upon which our estimated fees are based, we may adjust our fees and planned completion dates. If significant additional time is necessary, we will discuss it with management and arrive at a new fee estimate as soon as reasonably practicable.

OTHER ENGAGEMENT MATTERS

This letter set forth the rights and responsibilities of the parties with respect to the services to be provided. This engagement is being undertaken solely for the benefit of the parties to this agreement and no other person shall be entitled to enforce the terms of this agreement.

Enclosed, as required by *Government Auditing Standards*, is a copy of the report on the most recent peer review of our firm.

The workpapers for this engagement will be retained in accordance with our firm policy, or for any additional period requested by a cognizant agency. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the workpapers.

Jonathan Foster, CPA, is the engagement partner responsible for supervising the engagement and signing the report.

We appreciate the opportunity to provide these services and believe this letter accurately summarizes the significant terms of our engagement. Please sign the enclosed copy of this letter and return it to us.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Jonathan Foster", is written over a horizontal line.

Jonathan Foster
Davis Farr LLP

The services and arrangements described in this letter are in accordance with our understanding and are acceptable to us.

Groundwater Banking Joint Powers Authority

By _____
Treasurer

Date _____



Report on the Firm's System of Quality Control

Davis Farr LLP

Irvine, California;

and the Peer Review Committee of the California Society of CPAs

We have reviewed the system of quality control for the accounting and auditing practice of Davis Farr LLP (the firm) in effect for the year ended May 31, 2019. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including a compliance audit under the Single Audit Act, and examination of a service organization (SOC 1, Type 2 Report).

As part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

CPAs ■ Advisors

4120 Concourse, Suite 100, Ontario, CA 91764
909.948.9990 / 800.644.0696 / FAX 909.948.9633
gyl@gylcpa.com
www.gylcpa.com



Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Davis Farr LLP in effect for the year ended May 31, 2019, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Davis Farr LLP has received a peer review rating of *pass*.

GYL LLP

Ontario, California
September 23, 2019

Proposed Groundwater Banking Joint Powers Authority
2021 Investment Policy

DISCUSSION:

Section 6a(ii) of the Groundwater Banking Joint Powers Authority (GBJPA) Bylaws states that the Treasurer will work with the Finance Committee to recommend policies to the Board to address certain financial issues. Included is a requirement to establish an Investment Policy to prudently manage excess funds of the GBJPA. The recommended Groundwater Banking Joint Powers Authority 2021 Investment Policy is provided for the Committee's review and comment.

Proposed 2021 Investment Policy:

The proposed GBJPA 2021 Investment Policy adheres to investment-related Government Code Section 53600 *et seq.* and includes policy objectives, a delegation of authority and a detailed schedule of authorized investments. The proposed Policy is provided as Exhibit "A", and authorized investments include:

- US Treasury and Agency Securities
- Local Agency Investment Fund (LAIF)
- California State and Local Agency Securities (subject to Finance Committee approval)
- Negotiable CDs, Commercial Paper, Corporate and Municipal Notes/Bonds as permitted in the Government Code (subject to Finance Committee approval)

As specified in the Government Code, the Policy includes a Board delegation of authority to the Treasurer and Assistant Treasurer to manage the GBJPA's investment program. The delegation of authority is limited to a one-year period, renewable annually.

RECOMMENDATION:

That the Committee review and recommend Board approval of the proposed Groundwater Banking Joint Powers Authority 2021 Investment Policy.

LIST OF EXHIBITS:

Exhibit "A" – Proposed GBJPA 2021 Investment Policy

DRAFT - GROUNDWATER BANKING JOINT POWERS AUTHORITY

2021 INVESTMENT POLICY

Introduction:

This investment policy is intended to establish a clear understanding of the GBJPA's authorized investment activities for members of the public, the Board of Directors of the Groundwater Banking Joint Powers Authority (the "GBJPA"), GBJPA management, and outside investment professionals.

Policy:

It is the policy of the GBJPA to invest its funds in a prudent and professional manner which will provide maximum security of principal while meeting required cash flow demands and conforming to all State statutes governing the investment of public funds, the GBJPA's investment policies, and prudent cash management principles.

Scope:

This investment policy applies to all GBJPA funds that are under the direct oversight of the Board of Directors. The investment of any bond proceeds or related funds will also be made in accordance with this investment policy.

Standard of Care:

The Board of Directors and those persons authorized to make investment decisions on behalf of the GBJPA are trustees of public funds. The standard of care to be used in all investment transactions shall be the "prudent investor" standard set forth in California Government Code Section 53600.3, which states:

"When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency."

Officers and representatives of the GBJPA involved in the investment process shall refrain from personal business activities that could conflict with proper execution of the investment program or could impair their ability to make impartial investment decisions. "Designated Representatives"

of the GBJPA involved in the investment of GBJPA funds, which includes the Treasurer and Assistant Treasurer, shall disclose all information at the times and in the manner required by the GBJPA's Conflict of Interest Code.

Objectives:

The primary objectives of the GBJPA's investment activities, in priority order, are as follows:

1. **Safety:** Safety of principal is the foremost objective of the investment program. Investments of the GBJPA shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. Accordingly, diversification by issuer, type, and maturity of securities will be made to avoid or minimize potential losses on individual securities.
2. **Liquidity:** The GBJPA's investments will remain sufficiently liquid to enable the GBJPA to meet all operating and capital cash requirements. To the extent required, this liquidity will be maintained through the purchase of securities with active secondary or resale markets and with short-term maturities so as to minimize market risk on the market price of the securities.
3. **Yield:** The GBJPA's investments shall be made with the objective of attaining the highest rate of return commensurate with the above requirements for the preservation of capital and the maintenance of adequate liquidity.

Delegation of Authority:

In accordance with Government Code Sections 53607 and 53608, the Board of Directors hereby delegates to the GBJPA's Treasurer and Assistant Treasurer the authority to manage the GBJPA's investment program and to provide for the safekeeping of securities.

Authorized Investments:

The GBJPA is authorized to invest its funds pursuant to the following laws:

California Government Code:

- Section 53600 *et seq.* - General investments
- Section 16429.1 - Local Agency Investment Fund (LAIF)

The language of the Investment Policy will conform to the statutory requirements in effect.

The Treasurer and Assistant Treasurer are authorized to invest GBJPA funds in accordance with these laws, subject to certain restrictions that may be imposed by the GBJPA's Finance Committee and/or Board of Directors. These authorized investments and restrictions are shown in Exhibit "A".

Whenever practical, a competitive process shall be used for the purchase and sale of securities.

The Treasurer and Assistant Treasurer are authorized to invest in securities with terms or remaining maturities in excess of five years as part of the GBJPA's investment program, but no such investments are to be made without the concurrence of the Board of Directors.

Authorized Financial Institutions:

Only financial institutions designated as "primary dealers" by the Federal Reserve Bank of New York, or other dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule), are authorized to provide investment services to the GBJPA. The Treasurer may limit the number of dealers authorized to provide such services.

A copy of the GBJPA's annual investment policy shall be provided to each institution authorized by the Treasurer to provide services to the GBJPA. Prior to providing investment services, such financial institution shall acknowledge in writing that it has received the GBJPA's investment policy and that all persons handling the GBJPA's account have reviewed the policy.

All authorized financial institutions are required to send the GBJPA unaudited quarterly and audited annual financial statements or provide electronic access to the financial statements.

Safekeeping and Custody:

All security transactions entered into by the GBJPA shall be conducted on a delivery-versus-payment (DVP) basis. All securities owned by the GBJPA shall be delivered to the GBJPA by book entry, physical delivery, or a third-party custodial agreement. Any third-party custodian shall be designated by the Treasurer, and all securities held by such custodian, including book entry and physical securities, shall be held in a manner that clearly establishes the GBJPA's right of ownership. The GBJPA's custodial agent shall meet the requirements of Government Code Section 53608. The GBJPA's deposits with LAIF or any other authorized investment pool shall be evidenced by the standard reporting requirements of LAIF or the investment pool.

Reporting:

The Treasurer shall file a quarterly report with the Finance Committee at a public meeting that shows the status of the GBJPA's cash and securities, and all related investment transactions that occurred during the period. The status report shall also be filed with the GBJPA's General Manager and will include at least the following information:

- Type of investment
- Original cost
- Issuing institution
- Market value, including source
- Par amount
- Maturity date
- Coupon and/or yield

In addition, the status report shall include the portfolio's rate of return for the period, the average weighted life of the portfolio, a statement regarding the portfolio's compliance with the GBJPA's investment policy, and a statement regarding the GBJPA's ability to meet expenditure requirements over the following six months. (California Government Code Sections 53607 and 53646.)

Investment Policy Adoption and Amendments:

The Treasurer shall submit an investment policy at least annually to the Board of Directors at a public meeting. (California Government Code Section 53646.) The policy shall be effective for the calendar year specified. If the Board of Directors does not approve an investment policy for any calendar year, then the investment policy for the previous calendar year shall remain in effect until a new policy is approved.

The GBJPA's Finance Committee is authorized to make changes in the investment policy from time to time as may be necessary, provided that such changes may only be more restrictive in nature. Any changes that would liberalize the investment policy shall be approved by the Board of Directors before becoming effective. Any changes in the investment policy by the Finance Committee shall be reported to the Board of Directors at its next regular meeting

Exhibit A
Authorized Investments and Restrictions

| INVESTMENT TYPE | DESCRIPTION | RESTRICTIONS |
|--|---|--|
| U.S. Treasury and Agency Obligations | U.S. Treasury notes, bonds, bills or certificates of indebtedness, or those for which the full faith and credit of the United States are pledged for the payment of principal and interest. Also federal agency or U.S. government sponsored enterprise obligations, participations, or other instruments. | No additional restrictions. |
| California State and Local Agency Bonds, Notes and Warrants | Registered state warrants, treasury notes or bonds. Any bonds, notes, warrants or other evidences of indebtedness of any local agency in California. | Limited to securities approved by the Finance Committee. |
| Registered treasury notes or bonds of California or other 49 United States | Registered treasury notes or bonds of any of the other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California. | Limited to states and/or agencies approved by the Finance Committee. |
| U.S. Dollar Denominated Senior Unsecured Unsubordinated Obligations | Permits United States dollar-denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, with a maximum remaining maturity of five years or less, and eligible for purchase and sale within the United States. Must be rated “AA” or its equivalent or better by a nationally recognized statistical rating organization (“NRSRO”). Limited to 30% of local agency funds. | Limited to securities approved by the Finance Committee. |
| Negotiable Certificates of Deposit | Issued by national or state-chartered banks, savings associations, federal associations, state or federal credit unions, or by a federally-licensed or state-licensed branch of a foreign bank. Specified restrictions on credit unions for conflicts of interest. Limited to 30% of local agency funds. | Limited to domestic and foreign banks and thrift institutions approved by the Finance Committee. |

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| Commercial Paper | <p>Must be of “prime” quality of the highest ranking or of the highest letter and number rating as provided for by an NRSRO. Issuers must be organized and operating in the United States as a general corporation, have assets exceeding \$500 million, and have debt other than commercial paper, if any, that is rated “A” or its equivalent or better by an NRSRO. May not exceed 270 days maturity. Local agencies, that have less than \$100 million of investment assets under management may invest no more than 25% of their moneys in eligible commercial paper. Local agencies that have \$100 million or more of investment assets under management may invest up to 40% percent of their moneys in eligible commercial paper. A local agency may invest no more than 10% of its total investment assets in the commercial paper and the medium-term notes of any single issuer.</p> | Limited to corporations approved by the Finance Committee. |
| Medium Term Notes | <p>All debt securities issued by U.S. organized and operating corporations or depository institutions licensed by the U.S. or any state and operating within the U.S. Notes must be rated “A” or its equivalent or better by an NRSRO. May not exceed five years maturity, 30% of local agency funds, and no more than 10% of its total investment assets in the commercial paper and the medium-term notes of any single issuer.</p> | For depository institutions, same as shown under Negotiable Certificates of Deposit. For corporations, limited to those approved by the Finance Committee. |
| Local Agency Investment Fund | <p>Permits a local agency to deposit funds with the State Treasurer for the purpose of investment in securities prescribed in Cal. Gov. Code §§16429.1 <i>et seq.</i></p> | No additional restrictions. |
| Prohibited Investments | <p>A local agency shall not invest any funds in inverse floaters, range notes, mortgage derived interest-only strips, or any security that could result in zero interest accrual if held to maturity. However, a local agency may hold prohibited instruments until their maturity dates. Notwithstanding the prohibition above, a local agency may invest in securities</p> | No additional restrictions. |

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| | <p>issued by, or backed by, the United States government that could result in zero- or negative-interest accrual if held to maturity, in the event of, and for the duration of, a period of negative market interest rates. A local agency may hold these instruments until their maturity dates. This section shall remain in effect only until January 1, 2026, and as of that date is repealed. (Cal. Gov. Code §53601.6.)</p> | |
|--|---|--|

March 12, 2021
Prepared by: Fiona Sanchez
Agenda Item: 4

PROFESSIONAL SERVICES AGREEMENT

DISCUSSION:

The Groundwater Banking Joint Powers Authority (GBJPA) anticipates the need for the use of consultants to assist in the development and implementation of the Kern Fan Groundwater Storage Project. As such, the GBJPA will need a Professional Services Agreement for consulting services. The staffs of Rosedale and IRWD jointly worked with legal counsel to develop a draft standard Professional Services Agreement for use by the GBJPA, which is attached as Exhibit "A". A separate Construction Services Contract will be developed at a later date for use by the GBJPA.

RECOMMENDATION:

That the Committee review and provide input on the draft Professional Services Agreement, and direct staff and legal counsel to make any recommended changes prior to finalization and consideration of approval by the Board.

LIST OF EXHIBITS:

Exhibit "A" – Professional Services Agreement

AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
GROUNDWATER BANKING JOINT POWERS AUTHORITY
AND
CONSULTANT NAME, CAPITALIZED, BOLD

This AGREEMENT FOR PROFESSIONAL SERVICES (this "Agreement") is made and entered into this ____th day of _____, by and between GROUNDWATER BANKING JOINT POWERS AUTHORITY, a California joint powers authority organized under Article 1, Chapter 5, Division 7, Title 1 of the California Government Code, hereinafter referred to as "GBJPA," and **CONSULTANT NAME, CAPITALIZED** hereinafter referred to as "CONSULTANT."

W I T N E S S E T H

WHEREAS, GBJPA requires the following technical or professional services of a consultant: **<NAME OF SERVICES, i.e. engineering, architectural, consulting, technical>**, to be rendered on the

PROJECT NAME

as further described below; and,

WHEREAS, CONSULTANT represents that by virtue of its experience and training, it is qualified to perform the services required by GBJPA, and that it has available and will provide personnel and facilities necessary to accomplish the required services within the required time.

NOW, therefore, GBJPA and CONSULTANT agree as follows:

I. Definitions

- A. "Scope of Work" means those services described in the scope of work which is attached hereto as Exhibit A and incorporated herein by this reference, as modified by any Variances, and, except to the extent modified by Exhibit A and any Variances, in the Request For Proposal.
- B. "Project" means the Project identified in the first recital of this Agreement.
- C. "Compensation Schedule" means the fee and cost schedule which is attached hereto as Exhibit B and incorporated herein by this reference, as modified by any Variance.
- D. "Work" means all services to be provided by CONSULTANT pursuant to this Agreement.
- E. "Notice to Proceed" is defined in Section II.
- F. "Variance" means a Professional Services Variance executed and approved in the form of Exhibit C, which is attached hereto and incorporated herein by this reference, pursuant to Section VIII.

G. "Work Product" is defined in Section VI.

H. "Schedule" means the activity schedule set forth in the Request For Proposal, as modified by Exhibit A and any Variances.

I. "Request For Proposal" means the document, including any addenda and attachments thereto, used to solicit the proposal for the Work.

J. "Design Professional Services" means services related to the preparation of engineering or architectural drawings, construction documents and other design-related services required to be performed by or under the supervision of licensed professionals, as well as other services provided by or under the supervision of licensed professionals.

K. "Professional Services" means (1) services involving the provision of a report, study, plan, design, specification, document, program, advice, recommendation, analysis, review, opinion, inspection, investigation, audit, brokering or representation of GBJPA before or in dealings with another party, or (2) any other services which require a special skill or expertise of a professional, scientific or technical nature. Professional Services includes Design Professional Services.

II. CONSULTANT's Services; Authorization

CONSULTANT agrees to perform the services identified in the Scope of Work. CONSULTANT shall furnish all services, materials, equipment, subsistence, transportation and all other items necessary to perform the Work. GBJPA will pay applicable state or local fees necessary to obtain permits for the Project, unless otherwise provided in the Scope of Work.

Specific authorization to proceed with the Work shall be granted in writing by GBJPA. CONSULTANT shall not proceed with the Work unless it is authorized. If it is specified in the Scope of Work that the Work or a portion of the Work is to be performed in phases or tasks as authorized, CONSULTANT shall not proceed with any phase or task unless it is separately authorized. The authorization shall set forth the date of commencement of the Work, or phase or task of the Work ("Notice to Proceed"). CONSULTANT shall commence the Work, or phase or task of the Work, immediately upon receipt of the applicable written Notice to Proceed.

III. Compensation

In return for performing the services described in the Scope of Work, GBJPA agrees to pay, and CONSULTANT agrees to accept, compensation in accordance with the Compensation Schedule. Unless otherwise specified in the Compensation Schedule, compensation shall be made on a time and materials basis. Compensation shall not exceed the amount authorized in the Notice to Proceed, except as approved under Section VIII: Change in Scope of Work.

CONSULTANT shall submit an invoice to GBJPA, on a monthly basis or less frequently, for the Work performed pursuant to this Agreement. Each invoice shall itemize the services rendered by task as set forth in the Scope of Work and the amount due in

accordance with the Compensation Schedule. Within fifteen (15) calendar days of receipt of each invoice, GBJPA shall notify CONSULTANT in writing of any disputed amounts included on the invoice. Within thirty (30) calendar days of receipt of each invoice, GBJPA shall pay all undisputed amounts included on the invoice.

IV. Performance Standards

The standard of care for all Professional Services, including Design Professional Services, performed to execute the Work shall be the care and skill ordinarily used by members of the profession practicing under similar circumstances at the same time and locality of the Project. CONSULTANT makes no other warranty, either expressed or implied.

V. Integration; Amendment

This Agreement represents the entire understanding by and between GBJPA and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by both parties hereto.

VI. Documents

All original drawings, specifications, calculations, estimates, studies, reports, memoranda, records, reference material, data, charts, renderings, computations, compilations, submittals and any other documents developed or compiled for the Project, whether in the form of writing, figures, computer disks or other electronic format ("Work Product"), shall be and remain the property of GBJPA, without restriction upon their use or dissemination by GBJPA, with the exception of any intellectual property rights contained therein, owned or created by CONSULTANT prior to the effective date of this Agreement and/or created outside the scope of this Agreement. CONSULTANT may make and retain copies thereof for its records as desired, but no such items shall be the subject of a copyright application by CONSULTANT.

Reuse by GBJPA of Work Product for any project or purpose other than the Project shall be at GBJPA's sole risk. Nothing in this paragraph shall constitute or be construed to be any representation by the CONSULTANT that the Work Product is suitable in any way for any project other than the Project.

All data, documents, discussion and other information developed or received by CONSULTANT or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONSULTANT without GBJPA's prior written consent. GBJPA shall grant such consent if disclosure is legally required. Upon request, all GBJPA information shall be returned to GBJPA upon the termination or expiration of this Agreement. For this purpose, GBJPA confidential information shall not include (i) information that, at the time of disclosure by CONSULTANT, is publicly available or generally known or available to third parties, or information that later becomes publicly available or generally known or available to third parties through no act or omission by CONSULTANT; (ii) information that CONSULTANT can demonstrate was in its possession prior to receipt from GBJPA; (iii) information received by CONSULTANT from a third party who, to CONSULTANT's knowledge and reasonable belief, did not acquire

such information on a confidential basis either directly or indirectly from GBJPA; or (iv) information CONSULTANT can demonstrate was independently developed by it or a third party or for it or a third party and that was not obtained, in whole or in part, from GBJPA.

CONSULTANT acknowledges that GBJPA is a public agency subject to the Public Records Act. Information that CONSULTANT desires to retain as confidential should not be disclosed to GBJPA unless expressly requested by GBJPA. If GBJPA receives a request to disclose information that was provided to GBJPA by CONSULTANT in the course of performing this Agreement and was designated by CONSULTANT as "confidential information," GBJPA will notify CONSULTANT of such request. If CONSULTANT objects to the disclosure, CONSULTANT shall expeditiously, at its sole expense, seek a court protective order to prevent such disclosure, and absent the granting of such an order, GBJPA shall release the information as required by applicable law.

VII. Performance and Schedule

Time is of the essence in the performance of this Agreement. CONSULTANT agrees to coordinate the Work to ensure its timely completion and shall promptly notify GBJPA of any anticipated delays or causes or casualties beyond the CONSULTANT's control which may affect the Schedule. In the event the time for completing the Scope of Work is projected to be exceeded due to circumstances beyond the control of CONSULTANT, CONSULTANT shall have an additional amount of time to be agreed upon in writing between the parties pursuant to Section VIII, in which to complete the Work. CONSULTANT agrees to complete the Work in accordance with the Schedule.

The time provided to CONSULTANT to complete the Work required by this Agreement shall not affect GBJPA's right to terminate this Agreement.

VIII. Change in Scope of Work

GBJPA may request or CONSULTANT may recommend, that CONSULTANT perform services in addition to or different from that delineated in the original Scope of Work, and may delete services from the Scope of Work, and/or change the Schedule. Upon GBJPA's request or CONSULTANT's recommendation for additional or changed work, CONSULTANT shall provide a cost estimate and written description of the additional or changed work. Prior to any such addition, change, or deletion to the Work or any Schedule change, including a Schedule change pursuant to Section VII, GBJPA and CONSULTANT shall negotiate an adjustment of compensation and time for completion and shall execute a Variance. Upon execution of each Variance, (i) the Scope of Work and Compensation Schedule shall thereafter be as described in Exhibits A and B, respectively, as modified by the Variance and any previously executed Variance, and (ii) the time for completing the Work shall be as set forth in the Variance. Following execution of any Variance, all terms and provisions of the Agreement, except as expressly modified by such Variance, shall remain in full force and effect, including, but not limited to, "Performance Standards" and "Insurance and Indemnification." GBJPA will not be required to pay for any additional or changed work rendered in advance of the execution of a Variance covering the additional or changed work.

IX. Termination or Abandonment

GBJPA has a right to terminate or abandon any portion or all of the Work for any reason by giving ten (10) calendar days written notice. In the event of termination, GBJPA shall have the right to take possession immediately of all Work Product developed for that portion of the Work completed and/or being abandoned, and CONSULTANT shall deliver such Work Product to GBJPA. GBJPA shall pay CONSULTANT for services for any portion of the Work being terminated which were rendered prior to termination. If said termination occurs prior to completion of any task of the Work for which a payment request has not been received, the fee for services performed during such task shall be based on an amount mutually agreed to by GBJPA and CONSULTANT for the portion of such task completed but not paid prior to said termination. GBJPA shall not be liable for any costs other than the fees or portions thereof which are specified herein.

X. Insurance

During the term of the Agreement, CONSULTANT shall carry, maintain and keep in full force insurance against claims for injuries or death or damages to property that may arise from or in connection with CONSULTANT's performance of this Agreement. Such insurance shall be of the types and in the amounts set forth as follows:

Comprehensive general liability insurance with coverage limits of not less than One Million Dollars (\$1,000,000) per occurrence and aggregate, including products and operations hazard, contractual insurance, broad form property damage, independent consultants, personal injury, underground hazard, and explosion and collapse hazard where applicable.

Business automobile liability insurance for vehicles used in connection with the performance of this Agreement with minimum limits of One Million Dollars (\$1,000,000) per claimant and One Million Dollars (\$1,000,000) per incident and aggregate.

Workers' compensation insurance as required by the laws of the State of California. This requirement may be waived by GBJPA upon certification by CONSULTANT that it has no employees or individuals who are defined as "employees" under the Labor Code.

If the Work includes design professional services, then in addition to the above-listed coverages, CONSULTANT shall carry, maintain and keep in full force professional liability insurance, with limits of not less than One Million Dollars (\$1,000,000) per claim or occurrence and Two Million Dollars (\$2,000,000) aggregate limits, throughout the term of this Agreement to cover claims caused by CONSULTANT's negligent acts, errors, or omissions of a professional nature.

Insurance coverages described above shall be afforded by insurance carriers that meet or exceed requirements for financial performance and security by having a Best's Key Guide rating of "A" or better; additionally, carriers shall have an assigned Financial Size Category of "VIII" or higher.

CONSULTANT shall provide evidence of insurance coverages on forms satisfactory to GBJPA, including endorsements providing that policies cannot be canceled or reduced except on thirty (30) calendar days written notice by the insurance carrier of cancellation or non-renewal (ten (10) calendar days notice for non-payment of premium). Industry standard forms for "certificate of insurance" from ACORD are accepted, provided that appropriate language regarding notice of non-renewal or cancellation is provided on the form. CONSULTANT shall provide proof that policies of insurance required herein expiring or terminated during the term of this Agreement have been renewed or replaced with other policies providing coverage meeting the requirements hereof. Such proof will be furnished at least fourteen (14) calendar days prior to the expiration or termination of the coverages. Any deductibles or self-insured retentions must be declared to and are subject to approval by GBJPA.

The general liability and automobile policies required by this Agreement shall contain an endorsement naming GBJPA and its directors, officers, agents, employees, volunteers, and other entities for which GBJPA directors are the governing body as additional insureds.

The general liability and automobile insurance provided by CONSULTANT shall be primary, and any insurance or self-insurance maintained by GBJPA shall be in excess of CONSULTANT's insurance and shall not contribute with it.

Insurance coverage required herein shall not prohibit CONSULTANT from waiving the right of subrogation prior to a loss. CONSULTANT hereby waives all rights of subrogation against GBJPA.

XI. Indemnification

Procurement of insurance by CONSULTANT shall not be construed as a limitation of CONSULTANT's liability or as full performance of CONSULTANT's duties to indemnify, hold harmless and defend under the following paragraph of this Agreement.

CONSULTANT shall indemnify, defend and hold GBJPA and its directors, officers, agents, employees, and other entities for which GBJPA's directors are the governing body harmless from all damages, costs, liability claims, losses, judgments, penalties and expenses, including reasonable attorney's fees as a result of third party claims, to the proportionate extent arising out of or pertaining or relating to the negligent acts, errors or omissions, or recklessness or willful misconduct of CONSULTANT, its officers, agents or employees, or out of CONSULTANT's breach of its obligations in performing this Agreement.

XII. Attorney's Fees and Costs

In the event an action is commenced by a party to this Agreement against any other party or parties hereto to enforce its rights or obligations arising from this Agreement, the prevailing party in such action, in addition to any other relief and recovery awarded by the court, shall be entitled to recover all statutory costs plus expert witness fees, and a reasonable amount of attorney's fees. If GBJPA is required to initiate or defend litigation with a third party because of the violation of any term or provision of this Agreement by CONSULTANT, then GBJPA shall be entitled to its expert fees, reasonable attorney's fees, and costs from CONSULTANT in that action.

XIII. Successors and Assigns

This agreement and all of the terms, conditions, and provisions hereof shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns; provided, however, that no assignment of this Agreement shall be made without written consent of the parties to this Agreement.

Any attempt by CONSULTANT to assign or otherwise transfer any interest in this Agreement without the prior written consent of GBJPA shall be void. Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, registered or certified, postage prepaid, addressed to:

GBJPA:
c/o Rosedale Rio Bravo Water Storage District
849 Allen Road
Bakersfield, CA 93314
Attn: _____

CONSULTANT:

Attn: _____

and shall be effective upon receipt thereof.

XIV. Project Organization

CONSULTANT proposes to assign _____ as the Project Manager. The Project Manager shall not be removed from the Project or reassigned without prior approval of GBJPA.

Except as specifically identified in the Scope of Work, no subcontracting or subconsulting of any portion of the Scope of Work shall be made without prior approval of GBJPA, and any attempt to do so shall be void and have no effect.

In the performance of the Work, CONSULTANT shall assign only personnel, including its employees and its authorized subcontractors and subconsultants, who are qualified to perform the Work. If the quality of the Work of personnel assigned by CONSULTANT is unacceptable to GBJPA, CONSULTANT agrees to assign replacement personnel upon GBJPA's request.

CONSULTANT shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Sections 1090 et seq. and 81000 et seq. of the California Government Code.

CONSULTANT is an independent contractor and not an agent or employee of GBJPA, and CONSULTANT shall have no authority to act as an agent of GBJPA or to enter into

any agreement for or on behalf of GBJPA. In performing this Agreement, the parties are not the agents, employees, partners, joint venturers or associates of one another.

CONSULTANT shall determine the method, details and means of performing the services described in the Scope of Work.

XV. Miscellaneous

GBJPA shall have no obligation under this Agreement to any party other than CONSULTANT.

This Agreement shall be governed by the laws of the State of California. Any action regarding the interpretation or enforcement of this Agreement shall be filed in the County of Kern, California.

If the Work includes public work subject to the requirements of the California Labor Code, CONSULTANT shall comply with the requirements set forth in the attached addendum, which are incorporated herein by this reference, to the extent applicable to any of the Work.

XVI. Compliance with all Laws. CONSULTANT shall, at CONSULTANT's sole cost, comply with all of the requirements of Municipal, County, State, and Federal authorities now in force, or which may hereafter be in force, pertaining to this Agreement, and shall faithfully observe in all activities relating to or growing out of this Agreement all ordinances of the county and State and Federal statutes, rules or regulations, and permitting requirements now in force or which may hereafter be in force including, without limitation.

XVII. Authority. The person(s) executing this Agreement on behalf of the parties hereto warrant that (a) such party is duly organized and existing, (b) they are duly authorized to execute and deliver this Agreement on behalf of said party, (c) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (d) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

XIII. Unauthorized Use of GBJPA's Name. Except as required by law or with the prior written consent of GBJPA and its members (which consent may be withheld in its sole and absolute discretion), CONSULTANT shall not use GBJPA's name, seal or logo on marketing materials, nor shall CONSULTANT state, imply or in any way represent to any third party that GBJPA has endorsed or approved CONSULTANT or any of its work, services or products.

XIX. Execution.

Electronic Signatures. CONSULTANT and GBJPA may execute this Agreement using an "electronic signature," as that term is defined in California Civil Code Section 1633.2, or a "digital signature," as defined by California Government Code Section 16.5. An electronic or a digital signature will have full legal effect and enforceability unless otherwise prohibited by GBJPA or by ordinance, rule, or statute. Nothing in this Section

requires GBJPA to use or accept the submission of any subsequent or related document containing an electronic or digital signature.

CONSULTANT NAME

By: _____
CONSULTANT SIGNATORY NAME, TITLE

GROUNDWATER BANKING JOINT POWERS AUTHORITY

By: _____
GBJPA SIGNATORY NAME, TITLE

EXHIBIT “C”

GROUNDWATER BANKING JOINT POWERS AUTHORITY SERVICES VARIANCE

Purpose. This procedure shall be used to identify, estimate, and report variances to the scope of work in services agreements between GBJPA and Consultant. A variance may be initiated by either GBJPA's Project Manager or by the Consultant.

Variance. The Variance shall be used to identify all changes to the original scope of work, budget, and schedule for any study, consulting, or implementation phases of services.

Consultant Initiates Variance. If a Variance is initiated by the Consultant, the Consultant shall prepare the Variance including the Description of Variance, the Management Cost Impact, the Schedule Impact, and the Required Approval Determination sections. The Consultant shall then sign the Variance and submit it to the GBJPA Project Manager for action.

IRWD Initiates Variance. If a Variance is initiated by GBJPA's Project Manager, the GBJPA Project Manager shall complete the Description of Variance and fill-in the Total Original Contract amount and Previous Variances amount (if any). The Variance shall then be given to the Consultant to complete the Cost Impact, the Schedule Impact, and the Required Approval Determination sections. The Consultant shall then sign the Variance and submit it to the GBJPA Project Manager for action.

Variance Processing. Once a Variance is signed and submitted by the Consultant, the GBJPA Project Manager shall:

1. Enter the Variance's details onto a Variance Register for the project,
2. Review, sign, and date the Variance, and
3. Obtain appropriate approvals.

Notice to Proceed. Work covered by a Variance may proceed upon signing by the Project Manager. A copy of the Variance, approved with all of the required contractual authorization signatures by the GBJPA, shall be the Consultant's Notice to Proceed with the required work.

Contractual Authorization. Work covered by a Variance which has been signed by the Project Manager may require final approval from the General Manager, or Board based upon the requirements of the Procurement Policy. The GBJPA Project Manager shall promptly prepare a memo to the General Manager, and/or Board agenda items(s) for approvals as required. Once the Variance is properly approved, it modifies the existing Consultant's agreement.

Financial Authorization. An approved Variance may require any of the following:

1. An extension to an existing Purchase Order, and/or
2. A new Purchase Order.

It is the GBJPA's Project Manager's responsibility to process the necessary paperwork to grant the required financial authorization.

GROUNDWATER BANKING JOINT POWERS AUTHORITY SERVICES VARIANCE

Project Title: _____

Project No.: _____ Date: _____

Purchase Order No.: _____ Variance No.: _____

Originator: ☐ GBJPA ☐ CONSULTANT ☐ Other (Explain) _____

Description of Variance (*attach any back-up material*):

Management Cost Impact:

| Classification | Manhours | Billing Rate | Labor \$ | Direct Costs | Subcon. \$ | Total \$ |
|-------------------|----------|--------------|----------|--------------|------------|----------|
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| | | | | | | |
| Total \$ = | | | | | | |

Schedule Impact:

| Task No. | Task Description | Original Schedule | Schedule Variance | New Schedule |
|----------|------------------|-------------------|-------------------|--------------|
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Required Approval Determination:

| | | |
|--|----------|--|
| Total Original Contract | \$ _____ | <input type="checkbox"/> IRWD and RRB Project Managers: Joint approval of variances less than or equal to \$50,000. <input type="checkbox"/> General Manager: Cumulative total of Variances less than or equal to \$100,000. <input type="checkbox"/> Board: Cumulative total of Variances greater than \$100,000. |
| Previous Variances \$ | _____ | |
| This Variance \$ | _____ | |
| Total Sum of Variances | \$ _____ | |
| New Contract Amount | \$ _____ | |
| Percentage of Total Variances to Original Contract | _____ % | |

CONSULTANT: _____
Company Name

GROUNDWATER BANKING JPA

Project Manager _____ Date _____

RRB Project Manager _____ Date _____

_____ Date _____

IRWD Project Manager _____ Date _____

Consultant's Management _____ Date _____

General Manager/ Board _____ Date _____

GROUNDWATER BANKING JOINT POWERS AUTHORITY

SERVICES VARIANCE REGISTER

Project Title: _____

Project No.: _____ Project Manager: _____

| Variance No. | Description | Dates | | Variance Amount |
|--------------|-------------|-----------|----------|-----------------|
| | | Initiated | Approved | |
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SHARED SERVICES AGREEMENT

DISCUSSION:

Pursuant to Article 10 of Groundwater Banking Joint Powers Authority (GBJPA) Agreement, Section 8 of the Bylaws stipulate that the Board negotiate shared staff services agreements with Rosedale-Rio Bravo WSD (RRB) and Irvine Ranch Water District (IRWD) upon formation of the GBJPA. RWD and Rosedale have worked with legal counsel to develop a draft Shared Services Agreement for review by the Committee, which is attached as Exhibit "A".

Key terms of the draft Shared Services Agreement are as follows:

- Hourly rates will be based on the respective RRB or IRWD base salaries;
- A standard agreed upon overhead rate for the GBJPA will be applied. The current agreed upon overhead rate for the GBJPA is 63.9%. The GBJPA overhead rate will be periodically reviewed;
- Mileage will be reimbursed at the standard IRS rate; and
- Expenses will be reimbursed at actual cost.

It is expected that RRB and IRWD each will separately execute the Shared Services Agreement with the GBJPA, following review and approval of the agreement by their respective agencies.

RECOMMENDATION:

That the Committee review and provide input on the draft Shared Services Agreement, and direct staff and legal counsel to make any recommended changes prior to finalization and consideration of approval by the Board.

LIST OF EXHIBITS:

Exhibit "A" – Shared Services Agreement

AGREEMENT FOR SHARED SERVICES RELATED TO THE GROUNDWATER BANKING JOINT POWERS AUTHORITY

This AGREEMENT (this “Agreement”) is made and entered into _____ 2021 (“Effective Date”), by and between the entities executing this Agreement below related to shared services for the GROUNDWATER BANKING JOINT POWERS AUTHORITY (“Authority” or “GBJPA”), a California joint powers authority organized under Article 1, Chapter 5, Division 7, Title 1 of the California Government Code. The executing parties are sometimes referred herein collectively as “Parties” or individually as a “Party.”

RECITALS

A. WHEREAS, Rosedale-Rio Brave Water Storage District (“RRB”) is a public agency organized in accordance with the California Water Storage District Law (Division 14, commencing with §39000 of the California Water Code) for the purpose of acquiring, storing, distributing, and replenishing water supplies within its boundaries in Kern County, California.

B. WHEREAS, Irvine Ranch Water District (“IRWD”) is a public agency organized in accordance with the California Water District Law (Division 13, commencing with §34000 of the California Water Code) to provide water services and certain other services. IRWD's powers and purposes include the acquisition within or outside the district in the State of all necessary property, water, and water rights for the production, storage, transmission, and distribution of water for irrigation, domestic, industrial, and municipal purposes and to provide and sell such water at wholesale and retail to customers within its boundaries in Orange County, California.

C. WHEREAS, both RRB and IRWD entered into an agreement on July 1, 2020 to establish a joint powers authority to pursue and develop the Kern Fan Groundwater Storage Project (“Project”).

D. WHEREAS, through the Project, the Parties seek to develop a regional water bank in the Kern County Groundwater Sub-basin of the San Joaquin Valley Groundwater Basin in Kern County. The Project would recharge and store up to 100,000 acre-feet of water during periods when surface water is abundant.

E. WHEREAS, the Parties formed the Authority to achieve the above-described objectives of the Project, and this Agreement will define the rates and timing of reimbursements related to staff time spent on the project and other related costs NOW, THEREFORE, it is agreed by and between the Parties as follows:

AGREEMENT

1. Staff Time; Rates of Reimbursement

The Parties intend to utilize existing staff at RRB and IRWD to staff and support the planning, design, construction, operation and administration of the Project. The primary responsibility for delegating reimbursable tasks to respective support staff shall lie with authorized persons: the General Manager, Project Manager(s) and Treasurer. Neither RRB nor IRWD will receive reimbursement for any staff time spent in furtherance of the Project that was not delegated to the staff member by an authorized person. RRB and IRWD shall each retain the right to dispute an invoice of the other on the grounds that specific work items were not appropriately authorized, were unnecessary to further the Project objectives, and/or that the time spent or the number of staff members working on a particular matter was excessive. The General Manager and Treasurer shall jointly have the right to resolve these issues. If such disputes can't be resolved, the matter will be resolved by the Board of Directors.

For hours worked on JPA related matters, hourly rates will be charged to the JPA based on the actual respective IRWD or RRB base compensation excluding benefits. A standard agreed upon overhead rate of 63.9% will be applied, unless otherwise agreed upon to all billable labor costs. The GBJPA overhead rate may be periodically reviewed and adjusted by the GBJPA Board of Directors.

All other JPA related expenses will be billed to the JPA based on actual costs. Supporting documentation must be provided. Mileage will be reimbursed at the standard IRS rate.

Each respective member agency will submit a bill for staff hours worked or any other JPA related costs to the JPA on a quarterly basis no later than 30 days after the end of a calendar quarter. The JPA will then reimburse the respective member agency no later than 30 days after receipt of the invoice.

2. Termination

This Agreement shall terminate at the completion of the Project or termination of the Groundwater Banking Joint Powers Authority Agreement and in accordance with the obligations set forth therein.

3. Amendments

This Agreement may be amended, or renewed, in writing at any time and from time to time by unanimous consent of all the member agencies. .

4. Complete Agreement

The foregoing constitutes the full and complete Agreement of the Parties. There are no oral understandings or agreements concerning the subject matter of this Agreement not set forth in writing herein.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on date set forth below.

IRVINE RANCH WATER DISTRICT

By: _____

Print Name: _____

Title: _____

Date: _____

Approved as to Form:

**GROUNDWATER BANKING JOINT
POWERS AUTHORITY**

By: _____

Print Name: _____

Title: _____

Date: _____

Approved as to Form:

Exhibit "A"

Groundwater Banking JPA Formation Tasks

Items not yet completed are **bolded**.

| Task | Citation | Timeline | Explanation/Notes | Completed |
|--|----------------------------|---|---|--|
| Draft joint exercise of powers agreement | GC § 6502 GC § 6503 | | An agreement must contain information required by the Act | IRWD and RRB executed the Agreement on April 8, 2020, and the Agreement became effective July 1, 2020 |
| Each founding agency approves Agreement | GC § 6502 | | Each member agency to the JPA must approve the Agreement | IRWD and RRB each approved the Agreement |
| File Form Notice and copy of Agreement with Secretary of State | GC § 6503.5 | Within 30 days of Agreement approval | The JPA may not issue bonds or incur indebtedness until this filing is complete | Filed with the Secretary of State on July 29, 2020 |
| File Form and copy of Agreement with the State Controller | GC § 6503.6 | After filing a Notice of a Joint Powers Agreement | After filing a Notice of Joint Powers Agreement with the Secretary of State, file a copy of the full text of the Agreement with the State Controller | Filed with the State Controller on July 29, 2020 |
| Send Registry of Public Agencies (Form SF-405) to the Secretary of State | GC § 53051 | Within 70 days of creation of the agency | The JPA is a new entity so must file this notice; filing ensures full benefits of the shorter statute of limitations under the Government Claims Act | Filed July 29, 2020 |
| Send Registry of Public Agencies (Form SF-405) to County Clerk | GC § 53051 | Within 70 days of creation of the agency | The JPA is a new entity so must file this notice; filing ensures full benefits of the shorter statute of limitations under the Government Claims Act | Filed August 5, 2020 with Kern County Clerk |
| IRWD & RRB boards each appoint two persons and an alternate to serve on JPA Board of Directors | | Prior to first JPA Board meeting | Agreement § 5(A) provides JPA Board consists of 4 members: <ul style="list-style-type: none"> • IRWD appoint 2, including 1 IRWD Board member and 1 other. • IRWD appoint 1 alternate who is an IRWD Board member or a designee. • RRB appoint 2, including 1 RRB Board member and 1 other. • RRB appoint 1 alternate who is an RRB Board member or a designee. | Not yet completed. Board Members appointed at August 25, 2020 Board Meeting of the Authority. Alternates have not yet been appointed. |
| Designate, and file an official bond for, the treasurer or other officer in charge of the JPA property | GC § 6505.5 GC § 6505.1 | At first JPA Board meeting | The JPA must name an officer and bond them for the management of JPA property, debts, and equity | In process. |

| Task | Citation | Timeline | Explanation/Notes | Completed |
|---|--------------------------|---------------------------------------|---|---|
| | | | | Agreement § 11 says Treasurer and General Manager shall file bonds |
| Designate a General Manager and Treasurer | GC § 6505 | At first JPA Board meeting | <p>The JPA must name these officers pursuant to the Agreement.</p> <p>Agreement § 6 says the General Manager shall be from RRB</p> <p>Agreement § 7 says the Treasurer shall be from IRWD</p> <p>Both can be from other member agency but both shall not be from same member agency</p> | General Manager and Treasurer appointed at August 25, 2020 Board Meeting of the Authority. |
| Designate Legal Counsel, which also will serve as Secretary | Agreement § 9 | | Agreement § 9 provides JPA Board will select Legal Counsel, which also shall serve as Secretary | Completed. |
| Establish reporting requirements, including requirements for quarterly reports and designate an auditor to make annual audits | GC § 6505 GC § 6505.5 | | The JPA must name an officer in charge of making quarterly reports on the amount of debt and equity held by the JPA and to conduct an annual audit of the JPA | <p>In process. Auditor selection pending Board approval.</p> <p>Agreement, § 13 provides that JPA board shall designate reporting requirements and appoint an independent CPA will make annual audits and reports to the JPA's board</p> |
| Establish a regular meeting time and place | GC § 54954(a) | At first JPA Board meeting | <p>State law dictates the JPA Board must set time and location of regular meetings by ordinance, resolution, or in bylaws</p> <p>Agreement, § 5(B) says the JPA Board will set regular meetings by resolution at its first meeting</p> | Established by Resolution at August 25, 2020 Board Meeting of the Authority. |
| Adopt Bylaws | Agreement § 5(E) | | Agreement § 5(E) requires JPA Board to adopt bylaws detailing how the Board will conduct business. | Adopted at August 25, 2020 Board Meeting of the Authority. |
| Adopt a Conflict of Interest Code | GC § 87303 | 6 months; then reviewed every 2 years | Conflict of Interest Code must be submitted to the code reviewing body for approval | In process. |
| Adopt an Investment Policy | GC § 53646(a)(2) | Annually | The treasurer or CFO may annually render a statement of investment policy | Pending approval. |

| Task | Citation | Timeline | Explanation/Notes | Completed |
|---|-------------------------|---------------------|---|---|
| Adopt a Debt Management Policy | GC § 8855(i)(1) | Before issuing debt | A debt policy shall include: (A) The purposes for which the debt proceeds may be issued (B) The types of debt that may be issued (C) The relationship of the debt to, and integration with, the issuer's capital improvement program or budget (D) Policy goals related to the issuer's planning goals and objectives (E) The Internal control procedures that the issuer has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use | Not yet completed. |
| Adopt JPA-specific CEQA Guidelines | PRC § 21082 | | A public agency shall adopt, by resolution, rule, or regulation, objective, criteria, and procedures for the evaluation of environmental impacts from a proposed project pursuant to CEQA | Completed. Adopted December 28, 2020 |
| JPA Board appoint standing Project Committee | Draft Bylaws § 6(a)(i) | | Draft Bylaws § 6(a)(i) provides JPA Board will appoint a standing Project Committee as follows: <ul style="list-style-type: none"> • 1 IRWD JPA Board member and 1 other; • 1 RRB JPA Board member and 1 other; • JPA General Manager; and • JPA Treasurer. | Appointed at August 25, 2020 Board meeting. |
| JPA Board appoint standing Finance Committee | Draft Bylaws § 6(a)(ii) | | Draft Bylaws § 6(a)(ii) provides JPA Board will appoint a standing Finance Committee as follows: <ul style="list-style-type: none"> • 1 IRWD JPA Board member; • 1 RRB JPA Board member; • JPA General Manager; and • JPA Treasurer. | Appointed at August 25, 2020 Board meeting. |
| Finance Committee recommend to JPA Board one or more policies on insurance coverage to be maintained by JPA | Draft Bylaws § 12 | | | In process. |
| RRB and IRWD each contribute \$2,500 to open JPA bank account(s) | Draft Bylaws § 10(b)(3) | | Draft Bylaws § 10(b)(3) says initial contributions to occur upon JPA formation | Complete. |

| Task | Citation | Timeline | Explanation/Notes | Completed |
|--|-------------------------|----------|---|--|
| | | | | . |
| RRB and IRWD each contribute "main initial funding to start up" JPA operations | Draft Bylaws § 10(b)(3) | | Draft Bylaws § 10(b)(3) provides that at JPA's initial Board meeting, the JPA Board shall adopt resolution specifying initial funding contributions to be made by RRB and IRWD, which shall have been submitted to and approved by the RRB and IRWD Boards in advance of the JPA's first Board meeting. | Complete. Budget and funding contributions approved November 2, 2020. |