

Meeting Date: 8/13/2013

Report Type: Consent

Report ID: 2013-00610

City Council Report
915 I Street, 1st Floor
www.CityofSacramento.org

Title: Agreement: Regional Water Authority (RWA) Governance Changes

Location: Citywide

Issue: The Regional Water Authority (RWA) Board of Directors request that the Joint Power Authority (JPA) members approve changes to the JPA Agreement in order to improve the advocacy function of the RWA.

Recommendation: Pass a Motion authorizing the City Manager or City Manager's designee to execute the Amended and Restated Joint Exercise of Powers Agreement for the Regional Water Authority.

Contact: Dave Brent, Director, (916) 808-1420; Jim Peifer, Supervising Engineer, (916) 808-1416, Department of Utilities; Randi Knott, Intergovernmental Relations Officer, (916) 808-5771, Office of the City Manager

Presenter: None

Department: Department Of Utilities

Division: Government Affairs - Utilities

Dept ID: 14001071

Attachments:

- 1-Description/Analysis
- 2-Background
- 3-Attachment 1 (Q&A)
- 4-JPA Redline Markup
- 5-JPA Amended and Restated
- 6-RWA Counsel Opinion

City Attorney Review

Approved as to Form
Joe Robinson
8/7/2013 5:50:39 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
8/7/2013 11:39:59 AM

Approvals/Acknowledgements

Department Director or Designee: Jammie Moens - 8/7/2013 4:24:49 PM

Description/Analysis

Issue Detail: The Board of Directors of the Regional Water Authority (RWA) is proposing a change in the RWA Joint Powers Agreement that will allow the RWA to more effectively advocate for this region to protect its water supplies. The proposed change will allow the RWA Board of Directors to change the way it votes on external positions on legislative, judicial, or regulatory matters from unanimous written consent to a supermajority.

Policy Considerations: The proposed change is consistent with General Plan Policy U 2.1.1, which states that the City shall exercise and protect its water rights and entitlements.

Economic Impacts: None

Environmental Considerations: Administrative policy actions of this nature are not a considered to be a “project” under the California Environmental Quality Act (CEQA) [CEQA Guidelines § 15378(b)(2) and (b)(5)].

Sustainability: Not applicable.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: By approving this change, the City will better be able to advocate for its needs through the combined voice and resources of the region. The current governance structure hinders the RWA from being an effective advocate for the City and region’s water interest.

Financial Considerations: None

Emerging Small Business Development (ESBD): No goods or services are being purchased.

Background

The Regional Water Authority (RWA) has grappled repeatedly over several years with whether to change the provisions of the Joint Powers Agreement (JPA) that require unanimous written approval of policy positions. The proposed changes to the RWA JPA will allow the RWA to better advocate on external positions that relate to legislative, judicial or regulatory matters that affect water. In November 2012, the RWA Chair appointed an ad hoc committee to consider the necessary changes to RWA's institutional framework to allow us to be more effective in advocacy on behalf of the region. The ad hoc committee was tasked with bringing recommendations back to the RWA Executive Committee for consideration.

The ad hoc committee provided recommended changes in the JPA that will help facilitate advocacy of the RWA. The RWA Board approved the changes and members of the RWA must unanimously approve the JPA changes in order for the changes to go into effect. In summary, the JPA amendments would:

- Emphasize that RWA will advocate on external issues that affect the region by adding advocacy as one of RWA's express powers,
- Define clearly the "External Policy Issues" on which RWA would advocate, including state and federal legislative, regulatory and judicial matters,
- Move the process for taking policy positions on External Policy Issues out of the JPA itself and allow RWA's Board of Directors to govern the development of policy positions and their approval, and
- Identify the local issues on which RWA would not advocate – like local land use decisions, local ordinances and agreements or disputes among RWA signatories – without unanimous written consent from all RWA signatories.

The RWA has provided answers to questions regarding the changes to the JPA and that is attached. In addition, a redline markup of the JPA is attached along with a clean version and the RWA legal counsel's opinion of the voting requirements for amending the JPA.

ISSUE: CONSIDERATION OF AMENDMENTS TO REGIONAL WATER AUTHORITY JOINT POWERS AGREEMENT

BACKGROUND

RWA has grappled repeatedly over several years with whether to change the provisions of the Joint Powers Agreement (JPA) that require unanimous written approval of policy positions. In 2006, the RWA Executive Committee approved a proposal for minor changes to the JPA on this issue, but the proposed amendment did not progress. In July 2009, the RWA Board adopted a Strategic Plan that identified advocacy as one of four key goals for RWA action. A committee subsequently considered the need for JPA amendments, but did not propose immediate action. Later that year, the special session legislative package on water, and the lack of attention to Northern California concerns in the process, led to a realization that it is more important than ever to have a strong regional voice on issues that could impact the interests of RWA signatories.¹ Evaluating the need for changes to the unanimous consent provisions of the JPA has also been a recurring objective assigned during the performance evaluation of the Executive Director. In March 2012, RWA made significant progress when the Board approved Policy 100.5, which increased RWA's effectiveness at advocacy by defining the mechanism for implementation of policy principles that had been adopted by RWA's signatories.

In November 2012, the RWA Chair appointed an ad hoc committee to consider the necessary changes to RWA's institutional framework to allow us to be more effective in advocacy on behalf of the region. The ad hoc committee was tasked with bringing recommendations back to the RWA Executive Committee for consideration. The Executive Committee subsequently approved JPA amendments for consideration of the full Board of Directors.

PROPOSED JPA AMENDMENTS

The RWA Board voted unanimously on March 14, 2013 to circulate JPA amendments for approval by the members of RWA. Attachment 1 includes a clean draft version of the proposed amended JPA as well as a mark-up version of the affected pages. In summary, the JPA amendments would:

- Emphasize that RWA will advocate on external issues that affect the region by adding advocacy as one of RWA's express powers,
- Define clearly the "External Policy Issues" on which RWA would advocate, including state and federal legislative, regulatory and judicial matters,

¹ As required by JPA law, RWA has "Members," which are public agencies and mutual water companies, and "Contracting Entities," which are investor-owned utilities. To avoid confusion, those groups are referenced together as "signatories."

- Move the process for taking policy positions on External Policy Issues out of the JPA itself and allow RWA's Board of Directors to govern the development of policy positions and their approval, and
- Identify the local issues on which RWA would not advocate – like local land use decisions, local ordinances and agreements or disputes among RWA signatories – without unanimous written consent from all RWA signatories.

The amended JPA would become effective upon approval by all of the currently existing Members as described in a memorandum from RWA General Counsel (Attachment 2). Attachment 3 is a sample resolution that you may modify for your purposes.

RWA IMPLEMENTING POLICY

When the JPA amendments go into effect, the RWA Board will need to implement the changes by approving a policy to govern RWA's advocacy on External Policy Issues. The ad hoc committee, Executive Committee and Board all discussed possible provisions of such a policy, but nothing has been formally considered for adoption.

During the March 14, 2013 meeting at which the Board approved the circulation of the proposed JPA amendments, the Board also reviewed a preliminary draft policy (100.X) to inform the discussion of JPA amendments. The draft contained some fundamental aspects of an approach to policy making on external issues, which may be incorporated into a future policy. There is general agreement among participating RWA members that the process should:

- Recognize the interests of both Members and Contracting Entities in policy making,
- Provide the opportunity for a JPA signatory to abstain on approval of policy principles,
- Create a responsibility for signatories to respond to proposed principles in a timely manner,
- Allow for a supermajority to determine RWA policy on external policy issues, and
- Define the difference between high-level policy "principles" and specific policy "positions" and a process for adopting each.

STAFF RECOMMENDATION

- Staff recommends all RWA members approve the JPA amendments as drafted through the appropriate process of their governing board by June 17, 2013.
- Staff requests the RWA board representatives for each member coordinate closely with RWA so staff can provide any needed support to the approval process.

- Staff requests to be in attendance and offers to make a presentation at any meetings of members' governing boards at which the JPA amendments are discussed.
- Staff recommends the Executive Committee and Board continue to develop appropriate Board policy to implement the JPA changes when approved.

FAQ - Frequently Asked Questions – Proposed Amendments to the RWA JPA

Why is RWA seeking to modify the JPA?

Many external issues have become more important to RWA members since the JPA was developed more than a decade ago. A solution for the Sacramento-San Joaquin Delta, legislation affecting water rights law, pressure for a public goods charge on water customers, water conservation mandates and other state and federal actions create increasing challenges to RWA members. A strong regional voice can increase our ability to influence the outcomes on these issues. Many members believe the limitations of the JPA are an obstacle to RWA being a stronger advocate for the region.

Do the JPA amendments remove the requirement for unanimous consent on policy positions?

No. The amendments maintain the requirement for local issues, which have been a primary concern since RWA's inception. For external policy issues, the amendments provide for the RWA board, on which each member agency has two representatives, to determine the standard for approval of policy principles.

Why would my agency want to approve the amendments? Aren't we giving up some power in the organization?

While the unanimous consent requirement gives each member agency great power, it is only a power to veto action. The uncertainty present at the time of creation of RWA made this an important JPA provision. Over the last decade, RWA members have demonstrated great capacity to collaborate on mutually beneficial approaches to issues. Members now believe that making it easier for RWA to advocate on External Policy Issues will benefit them by helping to protect their interests as pressures from outside the region increase. In addition, the JPA amendments still would require each RWA member to consent before RWA takes a position on a matter specific to a member, like a project or ordinance proposed by that member.

What happens if some agencies approve the changes, but other don't?

The amendments would become part of the Joint Powers Agreement only upon approval of all of the current members. Failure to get full approval would leave the existing JPA as it is.

I support the JPA amendments, but I don't agree with all the provisions of the draft policy that was discussed. Can't I allay my concerns by not approving the JPA amendments?

It is true that failure to get full approval of the JPA amendments would mean the RWA Board could not approve an alternate procedure; however, the concerns with the current JPA would not be resolved. The draft Policy 100.X was provided to the RWA Board for discussion only.

Although it is the result of extensive discussion, and has broad support, it is not proposed for adoption at this time. The JPA amendments would simply allow the RWA Board representatives from each Member agency, rather than the full governing board of each member, to develop and adopt an appropriate procedure. Many members believe this is an appropriate role for the Board, as those individuals are most knowledgeable about their agency's involvement in RWA.

I generally agree with the proposed amendments, but I have some thoughts that would improve them. How do I propose my comments for consideration?

The proposed amendments have been discussed numerous times at many levels within RWA and there is broad agreement that they should move forward. While it is important to assure that changes to the JPA meet the needs of all members, coordinating editing by 22 signatories could prove impossible and become an obstacle to improving RWA's ability to advocate for the region. In addition, all RWA members will be able to participate in the RWA board's development of policies that would govern how RWA takes positions on external issues.

I support the amendments, but I think there are other things that need to be modified in the JPA. Should I propose changes as my agency approves the amendments?

There could be other things that particular members believe should be changed about the JPA. However, it is essential that all member agencies approve the identical amended JPA in order for it to become effective. Other changes can be proposed to the Executive Committee or Board at any time.

We can't foresee every issue that might come up on which there might be conflicting views among members. Wouldn't changing the policy again be very difficult if we don't get it right?

This may be the greatest benefit of vesting the power to adopt a procedure for policy positions with RWA's Board. Making appropriate changes in the future would be substantially easier than amending the JPA.

My colleagues on my agency's Board who aren't RWA reps may have questions. Will RWA staff be available to respond?

Staff will not only be available, but wish to actively engage with you to support the approval process in any way necessary, including responding to questions, briefing board members, and attending or presenting at board and council meetings.

I'm concerned that the large agencies will override the interests of small agencies. Wasn't the purpose of the unanimous consent provisions to protect against this?

I'm concerned that a group of smaller agencies will override the interests of large agencies. Wasn't the purpose of the unanimous consent provisions to protect against this?

I'm concerned that single purpose water district interests will override the broader interests of cities. Wasn't the purpose of the unanimous consent provisions to protect against this?

I'm concerned that investor owned utilities will conflict with the interests of RWA's public agency members. Wasn't the purpose of the unanimous consent provisions to protect against this?

These types of concerns were the drivers for requiring unanimous consent of policy positions when the JPA was originally developed. In the subsequent twelve years, RWA members have increasingly realized that we are stronger together, and that our common interests far outweigh our differences. In addition, the proposed JPA amendment would retain the unanimous consent rule for RWA to take a position on an agency's specific issues like ordinances, land use projects and agreements or disputes with other RWA members.

**AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT
REGIONAL WATER AUTHORITY**

This Amended and Restated Agreement is made and entered into as of this ~~1st~~ ___ day of _____ 2013~~01~~, by and between the parties to this Agreement (listed in Exhibit A). As of the date of this Amended and Restated Agreement's approval under Article 36 of the July 1, 2001 Joint Exercise of Powers Agreement, this Amended and Restated Agreement supersedes that 2001 Agreement.

INTRODUCTION

This Agreement changes the name of the Sacramento Metropolitan Water Authority ("SMWA") to the Regional Water Authority (the "Regional Authority"), and supersedes the agreement under which SMWA was formed and operated. SMWA will continue to operate, but as the Regional Authority. This amendment shall not affect any contracts entered into by SMWA, except for the change of name from SMWA to Regional Authority. The parties to this Agreement intend that the Regional Authority may, at some future time, provide the types of services that are currently being provided by other existing industry associations in the region, including, but not limited to, all or portions of the Sacramento Area Water Works Association ("SAWWA"), the Sacramento Maintenance and Regional Technology group ("SMART"), and the American River Basin Cooperating Agencies ("ARBCA"), subject to the approval of those entities and the Regional Authority.

Recitals

- A. This Agreement amends and supersedes in its entirety that certain joint exercise of powers agreement, as amended, that was entered into as of March 20, 1990 (the "SMWA JPA") to form the SMWA.
- B. The mission of the Regional Authority is to serve and represent the regional water supply interests, and to assist the Members of the Regional Authority in protecting and enhancing the reliability, availability, affordability and quality of water resources.
- C. The goals of the Regional Authority are to:
 1. Assist, where appropriate, in the voluntary consolidation of the services provided by existing industry/trade associations and water utility support groups within the Regional Authority.
 2. Develop and provide subscription-based (i.e., that are paid for by participating Members) support services, projects and programs of mutual interest for Members, or groups of Members, and certain other subscribers.
 3. Facilitate discussion of and action on matters of regional priority and interest.

4. Coordinate and implement regional water master planning, grant-funding acquisition, and related planning efforts.

5. Provide a unified voice to advocate and respond to legislative, regulatory and policy matters of importance to the region's water supply.

D. The guiding principles of the Regional Authority shall be:

1. To operate without exercising governing or regulatory authority over Members.

2. To operate without competing with Members for the development, treatment or delivery of water supplies.

3. To ensure that the positive traditions and essential functions of SMWA, SAWWA, SMART and ARBCA (if the Regional Authority provides the same types of services that those associations currently provide) be continued.

4. To operate in a manner that allows each Member to retain its ability to make business and policy decisions.

E. The Members desire to meet their mutual goals effectively and efficiently through the formation of the Regional Authority.

AGREEMENT

In consideration of the promises, terms, conditions and covenants contained herein, the parties to this Agreement hereby agree as follows:

GENERAL

1. **Incorporation of Recitals.** The foregoing recitals are hereby incorporated by reference.

2. **Members.** Each Member certifies and declares that it is a public agency (as defined in Government Code section 6500) or mutual water company (as defined in Government Code section 6525) that is authorized to be a party to this joint exercise of powers Agreement, and to contract with each other for the joint exercise of common powers in accordance with Article 1, Chapter 5, Division 7, Title 1 of the Government Code (the "JPA Act", commencing with section 6500).

DEFINITIONS

3. **Definitions.** When used in this Agreement, the following terms shall have the meanings set forth below:

- a. "Agreement" means this Joint Exercise of Powers Agreement.
- b. "Board of Directors" or "Board" means the governing body of the Regional Authority as established in this Agreement. The Board of Directors shall include representatives of Members and Contracting Entities as provided in this agreement.
- c. "Budget" means the approved budget applicable to the expenses of the Regional Authority.
- d. "Contracting Entity" or "Contracting Entities" means an entity providing retail water service to 1,000 or more retail connections that enters into a written agreement with the Regional Authority that has been approved by two-thirds of the membership of the Board (not just two-thirds of the representatives present at a meeting of the Board) to (1) contribute to the costs of the Regional Authority as specified in the agreement, (2) be represented on the Board of Directors, and (3) have the rights and duties set forth in the agreement.
- e. "Director" means a representative on the Board of Directors.
- f. "Executive Director" means the chief administrative officer of the Regional Authority.
- g. "External Policy Issues" means state and federal legislation, and regulatory issues; judicial matters having broad applicability to the mission and/or Members and Contracting Entities; and or land-use planning issues, or water projects or actions proposed by other of entities other than Members or Contracting Entities that may impact the region.
- h. "Fiscal Year" means an accounting period running from July 1 through June 30 of each year.
- i. "Member" means each entity that is or becomes a party to this Agreement.
- j. "Project or Program Agreement" means an agreement between the Regional Authority and two or more of its Members or Contracting Entities, to provide for carrying out a project or program that is within the authorized purposes of the Regional Authority, and sharing in the costs and benefits by the parties to the Project or Program Agreement.
- k. "Regional Water Authority" or "Regional Authority" means the changed name for SMWA.
- l. "SMWA" means the Sacramento Metropolitan Water Authority, a joint powers authority that was formed by a joint exercise of powers agreement, as

amended, that was entered into as of March 20, 1990, which, by virtue of this Agreement, is changed to the Regional Water Authority.

m. "SMWA JPA" means the joint exercise of powers agreement that formed SMWA.

CREATION OF JOINT POWERS AUTHORITY; POWERS AND PURPOSES

4. **Regional Authority Created.** The Regional Authority is hereby created pursuant to the JPA Act and this Agreement, reflecting the revisions of the SMWA JPA. The Regional Authority shall be a public entity separate from its Members.

5. **Boundaries of the Regional Authority.** The geographic boundaries of the Regional Authority shall be coextensive with those of the Members.

6. **Common Powers To Be Exercised.** In fulfillment of the stated mission and goals, the Regional Authority shall exercise the foregoing common powers and such additional powers as may be authorized by law in the manner hereinafter set forth.

7. **Powers and Limitations:**

a. **Powers.** The Regional Authority shall have the power in its own name to do any of the following:

1. Exercise jointly the common powers of its Members in studying, planning and implementing ways and means to provide reasonable and financially-feasible projects, programs and cooperative operations activities for Members.

2. Develop and provide voluntary support services and programs by subscription, including but not limited to: educational and training programs, water conservation programs, public education and outreach programs, water quality protection and laboratory testing programs, technical review and analysis programs, multi-Member regional planning activities, and coordinate the planning, design, financing, debt management, grant fund applications, construction and operation of physical assets on behalf of Members pursuant to the terms of this Agreement.

3. Make and enter into contracts.

4. Cooperate, act in conjunction and contract with the United States, the State of California, or any agency thereof, counties, municipalities, public and private corporations of any kind (including, without limitation, investor-owned utilities), and persons, or any of them, for any and all purposes necessary or convenient for the full exercise of the powers of the Regional Authority.

5. Contract for consultant services and to employ such other persons or employees, as it deems necessary.
6. Incur debts, liabilities and obligations, and enter into leases, installment sale and installment purchase contracts, subject to limitations herein set forth.
7. Apply for, accept, receive and administer state, federal or local grants, loans or other forms of aid or subvention from any agency of the United States of America, the State of California or other public or private entity compatible with the Regional Authority's full exercise of its powers.
8. Obtain any governmental authorizations or approvals required for the administration of the Regional Authority
9. Sue and be sued in its own name.
10. Acquire and dispose of real and personal property.
11. Perform all acts necessary or proper to carry out fully the purposes of this Agreement.
12. To the extent not specifically provided for herein, to exercise any powers in the manner and according to methods provided under the laws applicable to a Community Services District (Division 3 of Title 6 of the Government Code, commencing with section 61000).

13. Take and advocate positions on External Policy Issues in a manner consistent with any policies adopted by the Board of Directors to govern the taking and advocacy of such positions.

b. Limitations. To ensure that the Regional Authority does not take a position ~~on~~ in conflict with Members' or Contracting Entities' interests on local issues that are not External Policy Issues, the written consent of all Members and Contracting Entities ~~legislation, regulatory, or land use planning issues or projects proposed by other entities, the written consent of all Members~~ (i.e., the unanimous consent of those ~~entit~~ entit ~~ies~~ ies ~~re membership~~, not just those present at a Board of Directors meeting, or a quorum of the ~~m~~ Members and Contracting Entities) shall be required before the Regional Authority adopts formal positions on ~~such local issues~~ External Policy Issues. For purposes of this Article 7.b, the term "local issues" includes, but is not limited to, local land use decisions, local ordinances, projects in this region of individual Members or Contracting Entities and disputes or agreements among Members and/or Contracting Entities concerning the region. The Regional Authority also will not take a position on any judicial or regulatory matter directly involving a Member or Contracting Entity that otherwise would be an External Policy Issue without the consent of that Member or Contracting Entity. Notwithstanding any other portion of this Article 7.b, the Regional Authority may express support for a project of a Member or Contracting

Entity to other entities where the project promotes the mission of the Regional Authority and where the support position is consistent with adopted Board policy or policies.

AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT REGIONAL WATER AUTHORITY

This Amended and Restated Agreement is made and entered into as of this ___ day of _____ 2013, by and between the parties to this Agreement (listed in Exhibit A). As of the date of this Amended and Restated Agreement's approval under Article 36 of the July 1, 2001 Joint Exercise of Powers Agreement, this Amended and Restated Agreement supersedes that 2001 Agreement.

INTRODUCTION

This Agreement changes the name of the Sacramento Metropolitan Water Authority ("SMWA") to the Regional Water Authority (the "Regional Authority"), and supersedes the agreement under which SMWA was formed and operated. SMWA will continue to operate, but as the Regional Authority. This amendment shall not affect any contracts entered into by SMWA, except for the change of name from SMWA to Regional Authority. The parties to this Agreement intend that the Regional Authority may, at some future time, provide the types of services that are currently being provided by other existing industry associations in the region, including, but not limited to, all or portions of the Sacramento Area Water Works Association ("SAWWA"), the Sacramento Maintenance and Regional Technology group ("SMART"), and the American River Basin Cooperating Agencies ("ARBCA"), subject to the approval of those entities and the Regional Authority.

Recitals

- A. This Agreement amends and supersedes in its entirety that certain joint exercise of powers agreement, as amended, that was entered into as of March 20, 1990 (the "SMWA JPA") to form the SMWA.
- B. The mission of the Regional Authority is to serve and represent the regional water supply interests, and to assist the Members of the Regional Authority in protecting and enhancing the reliability, availability, affordability and quality of water resources.
- C. The goals of the Regional Authority are to:
 - 1. Assist, where appropriate, in the voluntary consolidation of the services provided by existing industry/trade associations and water utility support groups within the Regional Authority.
 - 2. Develop and provide subscription-based (i.e., that are paid for by participating Members) support services, projects and programs of mutual interest for Members, or groups of Members, and certain other subscribers.
 - 3. Facilitate discussion of and action on matters of regional priority and interest.

4. Coordinate and implement regional water master planning, grant-funding acquisition, and related planning efforts.
 5. Provide a unified voice to advocate and respond to legislative, regulatory and policy matters of importance to the region's water supply.
- D. The guiding principles of the Regional Authority shall be:
1. To operate without exercising governing or regulatory authority over Members.
 2. To operate without competing with Members for the development, treatment or delivery of water supplies.
 3. To ensure that the positive traditions and essential functions of SMWA, SAWWA, SMART and ARBCA (if the Regional Authority provides the same types of services that those associations currently provide) be continued.
 4. To operate in a manner that allows each Member to retain its ability to make business and policy decisions.
- E. The Members desire to meet their mutual goals effectively and efficiently through the formation of the Regional Authority.

AGREEMENT

In consideration of the promises, terms, conditions and covenants contained herein, the parties to this Agreement hereby agree as follows:

GENERAL

1. **Incorporation of Recitals.** The foregoing recitals are hereby incorporated by reference.
2. **Members.** Each Member certifies and declares that it is a public agency (as defined in Government Code section 6500) or mutual water company (as defined in Government Code section 6525) that is authorized to be a party to this joint exercise of powers Agreement, and to contract with each other for the joint exercise of common powers in accordance with Article 1, Chapter 5, Division 7, Title 1 of the Government Code (the "JPA Act", commencing with section 6500).

DEFINITIONS

3. **Definitions.** When used in this Agreement, the following terms shall have the meanings set forth below:
- a. "Agreement" means this Joint Exercise of Powers Agreement.
 - b. "Board of Directors" or "Board" means the governing body of the Regional Authority as established in this Agreement. The Board of Directors shall include representatives of Members and Contracting Entities as provided in this agreement.
 - c. "Budget" means the approved budget applicable to the expenses of the Regional Authority.
 - d. "Contracting Entity" or "Contracting Entities" means an entity providing retail water service to 1,000 or more retail connections that enters into a written agreement with the Regional Authority that has been approved by two-thirds of the membership of the Board (not just two-thirds of the representatives present at a meeting of the Board) to (1) contribute to the costs of the Regional Authority as specified in the agreement, (2) be represented on the Board of Directors, and (3) have the rights and duties set forth in the agreement.
 - e. "Director" means a representative on the Board of Directors.
 - f. "Executive Director" means the chief administrative officer of the Regional Authority.
 - g. "External Policy Issues" means state and federal legislation and regulatory issues; judicial matters having broad applicability to the mission and/or Members and Contracting Entities; and water projects or actions of entities other than Members or Contracting Entities that may impact the region.
 - h. "Fiscal Year" means an accounting period running from July 1 through June 30 of each year.
 - i. "Member" means each entity that is or becomes a party to this Agreement.
 - j. "Project or Program Agreement" means an agreement between the Regional Authority and two or more of its Members or Contracting Entities, to provide for carrying out a project or program that is within the authorized purposes of the Regional Authority, and sharing in the costs and benefits by the parties to the Project or Program Agreement.
 - k. "Regional Water Authority" or "Regional Authority" means the changed name for SMWA.

- I. "SMWA" means the Sacramento Metropolitan Water Authority, a joint powers authority that was formed by a joint exercise of powers agreement, as amended, that was entered into as of March 20, 1990, which, by virtue of this Agreement, is changed to the Regional Water Authority.
- m. "SMWA JPA" means the joint exercise of powers agreement that formed SMWA.

CREATION OF JOINT POWERS AUTHORITY; POWERS AND PURPOSES

4. **Regional Authority Created.** The Regional Authority is hereby created pursuant to the JPA Act and this Agreement, reflecting the revisions of the SMWA JPA. The Regional Authority shall be a public entity separate from its Members.
5. **Boundaries of the Regional Authority.** The geographic boundaries of the Regional Authority shall be coextensive with those of the Members.
6. **Common Powers To Be Exercised.** In fulfillment of the stated mission and goals, the Regional Authority shall exercise the foregoing common powers and such additional powers as may be authorized by law in the manner hereinafter set forth.
7. **Powers and Limitations:**
 - a. **Powers.** The Regional Authority shall have the power in its own name to do any of the following:
 1. Exercise jointly the common powers of its Members in studying, planning and implementing ways and means to provide reasonable and financially-feasible projects, programs and cooperative operations activities for Members.
 2. Develop and provide voluntary support services and programs by subscription, including but not limited to: educational and training programs, water conservation programs, public education and outreach programs, water quality protection and laboratory testing programs, technical review and analysis programs, multi-Member regional planning activities, and coordinate the planning, design, financing, debt management, grant fund applications, construction and operation of physical assets on behalf of Members pursuant to the terms of this Agreement.
 3. Make and enter into contracts.
 4. Cooperate, act in conjunction and contract with the United States, the State of California, or any agency thereof, counties, municipalities, public and private corporations of any kind (including, without limitation, investor-owned utilities), and persons, or any of them, for any and all purposes necessary or convenient for the full exercise of the powers of the Regional Authority.

5. Contract for consultant services and to employ such other persons or employees, as it deems necessary.
 6. Incur debts, liabilities and obligations, and enter into leases, installment sale and installment purchase contracts, subject to limitations herein set forth.
 7. Apply for, accept, receive and administer state, federal or local grants, loans or other forms of aid or subvention from any agency of the United States of America, the State of California or other public or private entity compatible with the Regional Authority's full exercise of its powers.
 8. Obtain any governmental authorizations or approvals required for the administration of the Regional Authority
 9. Sue and be sued in its own name.
 10. Acquire and dispose of real and personal property.
 11. Perform all acts necessary or proper to carry out fully the purposes of this Agreement.
 12. To the extent not specifically provided for herein, to exercise any powers in the manner and according to methods provided under the laws applicable to a Community Services District (Division 3 of Title 6 of the Government Code, commencing with section 61000).
 13. Take and advocate positions on External Policy Issues in a manner consistent with any policies adopted by the Board of Directors to govern the taking and advocacy of such positions.
- b. Limitations.** To ensure that the Regional Authority does not take a position in conflict with Members' or Contracting Entities' interests on local issues that are not External Policy Issues, the written consent of all Members and Contracting Entities (i.e., the unanimous consent of those entities, not just those present at a Board of Directors meeting, or a quorum of the Members and Contracting Entities) shall be required before the Regional Authority adopts formal positions on such local issues. For purposes of this Article 7.b, the term "local issues" includes, but is not limited to, local land use decisions, local ordinances, projects in this region of individual Members or Contracting Entities and disputes or agreements among Members and/or Contracting Entities concerning the region. The Regional Authority also will not take a position on any judicial or regulatory matter involving a Member or Contracting Entity that otherwise would be an External Policy Issues without the consent of that Member or Contracting Entity. Notwithstanding any other portion of this Article 7.b, the Regional Authority may express support for a project of a Member or Contracting Entity to other entities where the project promotes the mission of the Regional Authority and where the support position is consistent with adopted Board policy or policies.

BOARD OF DIRECTORS

8. **Membership on the Board of Directors.** The Board of Directors shall consist of the following representatives:
 - a. Each Member shall appoint two representatives, who shall be either a representative from the governing board, executive staff representatives or a combination thereof, either of whom may cast a single vote on behalf of their Member. The Authority prefers that one representative be from the Member's governing body, and that one representative be from the Member's executive staff.
 - b. Each Contracting Entity shall appoint two representatives, who shall be either a representative from the governing board of the Contracting Entity, executive staff representative, or a combination thereof, either of whom may cast a single vote on behalf of the Contracting Entity.
9. **Notification of Appointment to the Board of Directors.** A Member and a Contracting Entity shall notify the Regional Authority in writing from time to time of its designated representatives to the Board of Directors, including alternates who may act in the absence of a representative.
10. **Committees.**
 - a. **Executive Committee.** The Board shall create from its membership an Executive Committee consisting of not more than nine representatives from the Board of Directors. The representatives to the Executive Committee shall serve at the pleasure of the Board of Directors. The Executive Committee shall have the decision-making authority delegated to it by the Board, and shall coordinate and monitor the activities of Regional Authority staff and consultants, review and approve routine business decisions, and serve as a sounding board for ideas and issues on behalf of the Board of Directors. Executive Committee meetings will be open to the public (except for authorized closed sessions), noticed and conducted in accordance with applicable law.
 - b. **Ad hoc and Standing Committees.** From time to time, specific issues may arise that may require, in the view of the Chairman of the Board, specialized or detailed efforts outside the routine activities of the Board of Directors meetings or Executive Committee meetings. At such times, the Board Chairman may establish an ad hoc or standing committee to address those issues, appoint representatives to that committee and provide that committee with a specific mission or charter. Such committees shall meet as necessary at locations and times determined by their membership.

11. **Principal Office.** The Board of Directors shall establish the principal office of the Regional Authority. The Board is hereby granted full power and authority to change its principal office from one location to another within the boundaries of the Regional Authority. Any change shall be noted by the Secretary, but shall not be considered an amendment to this Agreement.
12. **Meetings.** The Board shall generally meet at the Regional Authority's principal office or at such other place as may be designated by the Board. The time and place of regular meetings of the Board shall be determined by resolution adopted by the Board. A copy of such resolution shall be furnished to each Member and Contracting Entity. All meetings shall be called and held in the manner as provided in Chapter 9, Division 2, Title 5 of the Government Code of the State of California (the "Brown Act," commencing at Section 54950).
13. **Quorum/Board Action.** A majority of all of the Board shall (a) constitute a quorum for the purposes of transacting the Regional Authority's business; and (b) be required for an affirmative vote for the Board to take action, except where different voting requirements are provided for in this Agreement.
14. **Powers and Limitations.** All the power and authority of the Regional Authority will be exercised by the Board, subject however, to the rights reserved by the Members as herein set forth, provided, that the Board may delegate its powers and authority to the Executive Committee or the Executive Director.
15. **New Members.** The Board shall have authority, upon the approval of two-thirds of the membership of the Board (not just two-thirds of the representatives present at a meeting of the Board), to: (a) approve new Members to the Regional Authority; (b) remove a Member, in which case the Board may amend Exhibit A to this Agreement for those purposes; and (c) approve agreements with Contracting Entities. The Board of Directors may provide that a new Member shall be liable only for obligations of the Regional Authority that existed from or after the effective date of the action approving the new Member.
16. **Minutes.** The Secretary of the Regional Authority shall cause to be kept minutes of all meetings of the Board and the Executive Committee. A copy of the approved minutes shall be forwarded to each Member and Contracting Entity.
17. **Rules of Procedure.** The Board will adopt Rules of Procedure within twelve months of the formation of the Regional Authority. The rules of procedure shall supplement but not be in conflict with this Agreement, and may contain policies and procedures for the efficient operation of the Regional Authority. In the event of conflict between this Agreement and other rules or procedures, the provisions of this Agreement shall govern.
18. **Officers.** A Board Chairman, and Vice-Chairman shall be elected from the membership of the Board, and shall hold office for a period of one year commencing on or about January 1 of each year, provided however, that the first

Chairman and Vice-Chairman shall hold office from the date of their appointment to December 31 of the ensuing year, or until their successors take office, whichever is later.

The Board shall appoint a Secretary upon recommendation of the Executive Director. The Secretary shall be responsible for keeping the minutes of all meetings of the Board and the Executive Committee, and all other official records of the Regional Authority.

The Board shall appoint a Treasurer of the Regional Authority, upon recommendation of the Executive Director, from among the officers or employees of the Regional Authority, who shall be the depository of funds and shall have custody of all money of the Regional Authority, from whatever source. The Treasurer shall perform the duties specified in Government Code Section 6505.5, shall draw all warrants and pay demands against the Regional Authority approved by the Board.

The Board may appoint legal counsel to the authority. The Regional Authority's legal counsel shall work cooperatively, and at the direction of the Executive Director. However, legal counsel shall ultimately report to the Board of Directors and the Executive Committee.

In addition, the Board shall have the power to appoint such additional officers, as it deems necessary.

The public officer or officers or employees of the Regional Authority who have charge of any funds or securities of the Regional Authority shall be bonded and the Board shall designate the amount of their bond. All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, worker's compensation and other benefits that apply to the activity of officers, agents or employees of any of the Members when performing their respective functions shall apply to them to the same degree and extent while engaged in the performance of any of the functions and other duties under this Agreement. None of the officers, agents or employees appointed by the Board shall be deemed by reason of their employment by the Board to be employed by any of the Members or by reason of their employment by the Board to be subject to any of the requirements of such Members.

EXECUTIVE DIRECTOR

19. **Executive Director.** The Executive Director of the Regional Authority shall be the chief administrative officer of the Regional Authority, shall serve at the pleasure of the Board of Directors, and shall be responsible to the Board for the proper and efficient administration of the Regional Authority pursuant to the provisions of this Agreement, or of any resolution or order of the Board. In addition to other powers and duties herein provided, the Executive Director shall have the power:

- a. Under policy direction of the Executive Committee, to plan, organize and direct all Regional Authority activities;
- b. To appoint and to remove all Regional Authority employees, all of whom shall serve at the pleasure of the Executive Director, except as is otherwise provided by law or by this Agreement;
- c. To authorize expenditures within the designations and limitations of the approved Budget; and
- d. To make recommendations to and requests of the Board of Directors, or Executive Committee, concerning all of the matters and things that are to be performed, done or carried out by the Regional Authority.

PLANNING AND PROGRAMS

20. **Planning Activities.** In keeping with the purpose of this Agreement, the Members hereby authorize and direct the Regional Authority to undertake and/or participate in such studies and planning as necessary to provide for the purposes set forth in the recitals hereto.

PROJECTS

21. **Projects.** The Regional Authority's projects are intended to facilitate and coordinate the development, design, construction, rehabilitation, acquisition, or financing of water-related facilities (including sharing in the cost of federal, State or local projects) on behalf of Members and/or Contracting Entities. The Regional Authority may undertake the development, design, construction, rehabilitation, acquisition or funding of all or any portion of such projects on behalf of Members and/or Contracting Entities in the manner and to the extent authorized by such Members and/or Contracting Entities as provided in this Agreement, but shall not accomplish these functions, nor acquire or own water-related facilities in its own name.
22. **Project or Program Agreement.** Prior to undertaking a project or program, the Members and/or Contracting Entities who elect to participate in a project or program shall enter into a Project or Program Agreement. Thereafter, all assets, benefits and obligations attributable to the project shall be assets, benefits and obligations of those Members and/or Contracting Entities that have entered into the Project or Program Agreement. Any debts, liabilities, obligations or indebtedness incurred by the Regional Authority in regard to a particular project or program, including startup costs advanced by the Regional Authority, shall be obligations of the participating Members and/or Contracting Entities, and shall not be the debts, liabilities, obligations and indebtedness of those Members and/or Contracting Entities who have not executed the Project or Program Agreement.

BUDGETS AND PAYMENTS

23. **Budget.** Each fiscal year, the Board shall adopt a Budget for the Regional Authority for the ensuing fiscal year.

24. **Contributions and Expenses:**

- a. Members and Contracting Entities (consistent with the terms of their agreements with the Regional Authority) shall share in the general operating and administrative cost of operating the Regional Authority, as outlined in the annual budget documents. The Board of Directors may approve, from time to time, an advance or contribution to proposed projects or program specific activities (start-up costs). The reimbursement of these start-up costs or contributions from subscribing Members and/or Contracting Entities will be required once the contemplated project or program is implemented as contained in the Project or Program Agreement, unless the Board of Directors determines otherwise by unanimous vote.
- b. Project or program-specific expenses, performed at the request of, or on behalf of Members and/or Contracting Entities shall have dedicated funding sources as described and contained in the Project or Program Agreement.
- c. The Board may arrange for the payment of the expenses of the Regional Authority through some other source, including but not limited to State or federal grants or loans.
- d. In accordance with Government Code Section 6512.1, repayment or return to the Members and/or Contracting Entities of all or part of any contributions made by the Members and/or Contracting Entities may be directed by the Board at such time, and upon such terms as may be consistent with any indebtedness incurred by the Regional Authority. The Regional Authority shall hold title to all funds and property acquired by it during the term of this Agreement.

FINANCING

25. **Capital Indebtedness.** The Regional Authority shall not issue, execute or otherwise participate in debt instruments for the purpose of acquiring, developing, licensing, permitting, treating, diverting, pumping or delivering water supplies.
26. **Other Indebtedness.** Subject to the provisions of Article 25, the Regional Authority shall have the power and authority to issue bonds, notes and other indebtedness, and to execute leases, installment sale contracts or installment purchase contracts for the purposes and in accordance with procedures and requirements as permitted by law.

ACCOUNTING AND AUDITS

27. **Accounting Procedures.** Full books and accounts shall be maintained for the Regional Authority in accordance with practices established by, or consistent with, those utilized by the Controller of the State of California for like public entities. In particular, the Regional Authority's Treasurer shall comply strictly with requirements of the JPA Act.
28. **Audit.** A qualified firm, serving in the capacity of auditor, shall audit the records and the accounts of the Regional Authority annually in accordance with the provisions of section 6505 of the JPA Act. Copies of such audit reports shall be filed with the State Controller, each Member and each Contracting Entity within six months of the end of the fiscal year under examination.

PROPERTY RIGHTS

29. **Property.** All property owned or acquired by the Regional Authority shall be held in the name of the Regional Authority for the benefit of the Members and/or Contracting Entities of the Regional Authority in accordance with the terms of this Agreement, unless a Project or Program Agreement provides otherwise.
30. **Liabilities.** The debts, liabilities and obligations of the Regional Authority shall be the debts, liabilities or obligations of the Regional Authority alone and not of the Members to this Agreement, except as may otherwise be expressly set forth in a Project or Program Agreement.

LIABILITY OF BOARD

31. **Indemnification of Board.** Except as otherwise provided in this Agreement, the funds of the Regional Authority shall be used to defend, indemnify and hold harmless the Regional Authority and Directors for their actions taken within the scope of the authority of the Regional Authority. Nothing herein shall limit the right of the Regional Authority to purchase insurance to provide such coverage, as is herein above set forth.

RESCISSION, TERMINATION, WITHDRAWAL, ASSIGNMENT

32. **Term.** The Regional Authority shall continue until this Agreement is terminated as herein provided.
33. **Rescission or Termination.** This Agreement and the Regional Authority may be terminated by two-thirds written consent of the Members except during the outstanding term of any Regional Authority indebtedness. Nothing in this Agreement shall prevent the Members from withdrawing as provided in this Agreement, or from entering into other joint exercise of power agreements.
34. **Disposition of Property Upon Termination.** Upon termination of this Agreement, any surplus funds on hand shall be returned to the then Members and Contracting Entities (consistent with the terms of their agreements with the Regional Authority)

in proportion to the contributions made. The Regional Authority shall first offer any property, rights or interests of the Regional Authority for sale to the Members and Contracting Entities for good and adequate consideration. If no such sale is consummated, the Regional Authority shall offer such property, rights and interests for sale to any governmental agency, or other entity for good and adequate consideration. The net proceeds from any sale shall be distributed among the Members and Contracting Entities (consistent with the terms of their agreements with the Regional Authority) in proportion to the contributions made. If no such sale is consummated, then the property, rights and interests of the Regional Authority shall be allocated to the Members and Contracting Entities in the same manner as the allocation of the net proceeds from a sale, unless otherwise agreed to by the Members and Contracting Entities.

35. Withdrawal.

- a. A Member may unilaterally withdraw from this Agreement without requiring termination of this Agreement, effective upon ninety days' written notice to the Regional Authority, provided that the withdrawing Member shall remain responsible for any indebtedness incurred by the Member under any Project or Program Agreement to which the Member is a party, and further provided that the withdrawing Member pays or agrees to pay its share of debts, liabilities and obligations of the Regional Authority incurred by the Member under this Agreement prior to the effective date of such withdrawal. A Contracting Entity may withdraw under the terms and conditions of its agreement with the Regional Authority.
- b. In the event the withdrawing Member has any rights in any property or has incurred obligations to the Regional Authority, the Member cannot sell, lease or transfer such rights or be relieved of its obligations, except in accordance with a written agreement executed by it and the Regional Authority. The Regional Authority may not sell, lease, transfer or use any rights of a Member who has withdrawn without first obtaining the written consent of the withdrawing Member.
- c. No refund or repayment of the initial commitment of funds (as determined by the Board of Directors) shall be made to a Member ceasing to be a Member to this Agreement whether pursuant to this Section or any other Section of this Agreement. The refund or repayment of any other contribution shall be made in accordance with the terms and conditions upon which the contribution was made, or other agreement of the Regional Authority and withdrawing Member.
- d. A Member may be involuntarily removed as a Member by two-thirds vote of the Board of Directors in the manner provided for in Article 15.

- 36. Amendments.** This Agreement may be amended from time to time by unanimous vote of the Members, except that Exhibit A may be amended to add a new member by vote of the Board of Directors in accordance with the provisions of Article 15.

37. **Assignment: Binding on Successors.** Except as otherwise provided in this Agreement, the rights and duties of the Members may not be assigned or delegated without the written consent of all other Members. Any attempt to assign or delegate such rights or duties in contravention of this Agreement shall be null and void. Any approved assignment or delegation shall be consistent with the terms of any contracts, resolutions, indemnities and other obligations of the Regional Authority then in effect. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Members hereto. The agreement between a Contracting Entity and the Regional Authority shall set forth provisions concerning assignment of the rights under that agreement.
38. **Notice.** Any notice or instrument required to be given or delivered under this Agreement may be made by: (a) depositing the same in any United States Post Office, postage prepaid, and shall be deemed to have been received at the expiration of 72 hours after its deposit in the United States Post Office; (b) transmission by facsimile copy to the addressee; (c) transmission by electronic mail; or (d) personal delivery.
39. **Counterparts.** This Agreement may be executed by the Members 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.
40. **Choice of Law.** This Agreement shall be governed by the laws of the State of California.
41. **Severability.** If one or more clauses, sentences, paragraphs or provisions of this Agreement is held to be unlawful, invalid or unenforceable, it is hereby agreed by the Members that the remainder of the Agreement shall not be affected thereby.

The foregoing is hereby agreed to by the Members.



Bartkiewicz, Kronick & Shanahan
A Professional Corporation

MEMORANDUM

TO: JOHN WOODLING, EXECUTIVE DIRECTOR

FROM: RYAN S. BEZERRA AND KATRINA C. GONZALES

DATE: FEBRUARY 28, 2013

RE: VOTING REQUIREMENTS FOR AMENDING THE JOINT POWERS AGREEMENT

SUMMARY

This memorandum describes the requirements for amending the July 1, 2001 joint exercise of powers agreement ("Agreement") that created the Regional Water Authority ("RWA"). Article 36 of the Agreement provides that it may be amended by a "unanimous vote" of RWA's "Members," which the Agreement defines as the parties to the Agreement. The Agreement does not specifically state, however, how this vote should be taken or when an amendment to the Agreement becomes effective.

Reading all of the Agreement's terms together, and with the Joint Exercise of Powers Act (Gov. Code §§ 6500-6536 ("Act")), indicates that the Agreement may be amended only upon the approval of the governing bodies of RWA's Members and would take effect upon the approval of the last Member.

DISCUSSION

- 1. The Governing Bodies Of All Members Of RWA, As Members Are Defined In The Agreement, Must Approve An Amendment To The Agreement**

Article 36 of the Agreement provides in full:

Amendments. This Agreement may be amended from time to time by unanimous vote of the Members, except that Exhibit A may be amended to add a new member by vote of the Board of Directors in accordance with the provisions of Article 15."

(Emphasis added.)

The Agreement defines "Member" to mean "each entity that is or becomes a party to the Agreement." (Art. 3(i) at p. 3.) Under the Act, only public agencies and mutual water companies can be parties to RWA's Agreement. (Gov. Code §§ 6500, 6502, 6525.) The public

agencies and mutual water companies that are parties to the Agreement therefore are the "Members" whose approval is necessary to amend the Agreement under its article 36.

Under both the Act and the Agreement, approval by the governing body of each of RWA's Members is necessary for an amendment to be approved. The Agreement's article 36 distinguishes between a "vote of the Members" and a "vote of the Board of Directors." The distinction is important in light of RWA's structure and the Act's terms. RWA includes "Contracting Entities," which provide retail water service, enter into a written agreement with RWA and have a seat on RWA's Board of Directors ("RWA Board"). (Arts. 3, 8 at pp. 3, 5-6.) Such Contracting Entities therefore can vote as part of RWA's Board of Directors, but cannot be "Members" of RWA. The Agreement's article 36 preserves this distinction by treating separately the approval of amendments to the Agreement – to be approved by Members – and the approval of new Members – to be approved by the Board of Directors. Accordingly, the Agreement can only be amended with the approval of the Members, rather than the individuals who serve on RWA's Board of Directors.

The Agreement's preservation of the distinction is consistent with the Act's terms concerning amendments to JPA agreements. Specifically, the Act requires that, when such an agreement creating a separate entity is amended, that entity must report to the Secretary of State, among other things, "[t]he name of each public agency that is a party to the agreement." (Gov. Code § 6503.5, subd. (a).)¹ The Act further states that, for public agencies to jointly exercise their powers, they must be "authorized by their legislative or other governing bodies . . ." (Gov. Code § 6502.) Under this authority, because an amendment to the Agreement would change the way that RWA's Members would jointly exercise their powers, the Members' governing bodies would need to approve an amendment to the Agreement. If the initial approval by a Member's governing body of that Member's joining of RWA delegated authority to approve amendments to the Agreement to the Member's staff, then the governing body already would have approved the amendment, assuming that the delegation complies with the rules that generally apply to that Member.

2. An Amendment To The Agreement Would Take Effect When The Last RWA Member Approves That Amendment

Neither the Agreement nor the Act explicitly declares what the effective date for an amendment to the Agreement is. The terms of both the Agreement and the Act, however, imply that the effective date of such an amendment is the date on which the last Member of RWA approves the amendment. As discussed above, the Agreement's article 36 requires a "unanimous vote of the Members" to amend the Agreement. Such a unanimous vote necessarily cannot occur until the last of RWA's Members approves the amendment, so an amendment's effective date must be the date that the last RWA Member approves it. This conclusion is consistent with the basic requirement of the Act that agencies may jointly exercise powers "[i]f authorized by their

¹ The section of the Act that allows mutual water companies to join JPAs states that it applies "[n]otwithstanding any other provision of this chapter" (Gov. Code § 6525), so Government Code section 6503.5's reference to only public agencies in relation to JPA amendments does not prohibit mutual water companies from participating.

legislative or other governing bodies." (Gov. Code § 6502.) As noted above, an amendment to the Agreement would change the way that RWA's Members jointly exercise powers. Under Government Code section 6502, each of the Member's governing bodies therefore must approve such an amendment in order to approve the revised manner in which its powers would be jointly exercised through RWA.