

**AGENDA
GROUNDWATER BANKING JOINT POWERS AUTHORITY
BOARD OF DIRECTORS
SPECIAL MEETING**

April 8, 2021

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 Board of Directors 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/81073728838>
Meeting Number (Access Code): 810 7372 8838
Meeting Password: 870318
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 Board enters closed session. Participants who remain in the "lobby" will automatically be returned to the open session of the Board once the closed session has concluded. Participants who join the meeting while the Board is in closed session will be placed in the waiting room. When the Board has returned to open session, the participants will be automatically added to the meeting.

CALL TO ORDER 9:00 a.m.

ROLL CALL Directors Pierucci, Selvidge, Reinhart, Swan

**PUBLIC COMMENT
NOTICE**

If you wish to address the Board of Directors 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@rbwsd.com before 5:00 pm. on April 7, 2021.

ALL VOTES SHALL BE TAKEN BY A ROLL CALL VOTE

1. COMMUNICATIONS TO THE BOARD

- a) Written:
- b) Oral:

2. ITEMS RECEIVED TOO LATE TO BE AGENDIZED

3. CONSENT ITEMS

4. JPA ADMINISTRATIVE ACTIONS

- a) Consideration and Possible Action of Amendment to Bylaws (Doug)
- b) Consideration and Possible Action of Land Acquisition Process (Dan/Rob)

5. KERN FAN GROUNDWATER STORAGE PROJECT

- a) Property Acquisition Update (Dan/Rob)

6. GENERAL MANAGER'S REPORT

- a) Consideration and Possible Action of General Manager position (Doug)

7. OTHER BUSINESS

Pursuant to Government Code Section 54954.2, members of the Board of Directors or staff may ask questions for clarification, make brief announcements, and make brief reports on his/her own activities. The Board or a Board member may provide a reference to staff or other resources for factual information, request staff to report back at a subsequent meeting concerning any matter, or direct staff to place a matter of business on a future agenda. Such matters may be brought up under the General Manager's Report or Directors' Comments.

8. CLOSED SESSION

- a) CLOSED SESSION CONFERENCE WITH REAL PROPERTY NEGOTIATORS – Pursuant to Government Code Section 54956.8:

Property: Kern County Assessor Parcel Numbers: 103-170-09,12,14,15,25-32; 103-270-01, 06, 07,15; 104-240-18, 22, 30, 31; 104-250-20, 21;

104-260-08; 104-270-28; 104-280-01, 02, 07, 18, 19, 24, 25, 27, and 28-35; 104-291-07; 104-292-09; 105-250-18, 20, 21; 160-010-66, 71

Agency negotiators: Eric Averett (or replacement designee(s))

Negotiating parties: Groundwater Banking Joint Powers Authority and Various Landowners / Lessees: Edward J. and Katherine Kosareff; Li Hsia Yang Yu; Nina Estill; Boozer Family, LP; Bettie Smith; Loh Investments LP; Edward Kosareff; M. Juan Alejandro Delgadillo; Alborz Farms LLC; AJB Land LLC; Rosedale Kern Properties LLC; Bolthouse Land Company, LLC; Bidart Dairy III, LLC; Marc McCaslin; Enns 2016 Trust; Bos Legacy LP; Diamond M. Properties LLC; Lonnie Dillard; Aera Energy, LLC; Other Identities Unknown.

Under negotiation: Price and Terms of Payment

b) CLOSED SESSION CONFERENCE WITH REAL PROPERTY NEGOTIATORS – Pursuant to Government Code Section 54956.8:

Property: Various Parcels

Agency negotiators: Eric Averett (or replacement designee(s))

Negotiating parties: Various parties and Groundwater Banking Joint Powers Authority

Under negotiation: Price and Terms of Payment

c) Conference with legal counsel – Pending Litigation – *Government Code Section 54956.9 (d)(1):*

- i. City of Bakersfield / Kern County Water Agency vs. GBJPA, *et al.* (Kern Fan Project EIR)

Kern County Superior Court Case No. BCV-21-100221-GP

Kern County Superior Court Case No. BCV-21-100223-GP

9. OPEN SESSION

General Counsel may announce any reportable actions taken during Closed Session.

10. ADJOURN

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 Board in connection with a matter subject to discussion or consideration at an open meeting of the Board are available for public inspection by contacting Megan Misuraca at mmisuraca@rrbwsd.com. If such writings are distributed to members of the Board less than 72 hours prior to the meeting, they will be available to the public at the same time as they are distributed to Board 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 Authority 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.

DECLARATION OF POSTING: I, Megan Misuraca, declare under penalty of perjury, that I am employed by the Rosedale-Rio Bravo Water Storage District and I posted the foregoing Agenda at the District Office on or before April 6, 2021. I, Leslie Bankowski, declare under penalty of perjury, that I am employed by the Irvine Ranch Water District and I posted the foregoing Agenda at the District Office on or before April 6, 2021.

Amendment No. 1 to Bylaws of the Groundwater Banking Joint Powers Authority

DISCUSSION:

During the past many months as the Authority has undertaken various actions on project related items, and with the transition of RRB's former general manager, it has become apparent that the Authority will be better served by providing staff with express authority within the Bylaws for the Authority's General Manager and Treasurer. This express authority will provide for the Authority's General Manager and Treasurer to designate responsibility to individuals to assist the Authority's General Manager and Treasurer with their responsibilities. Thus, staff has prepared and discussed a proposed addition to the Authority's Bylaws to accomplish this action.

Please see a new section at Section 7. f. for consideration in Exhibit A.

Per Section 15. of the Bylaws, the Board of Directors may adopt, amend, or repeal any section of the Bylaws.

RECOMMENDATION:

That the Board of Directors approve Amendment No. 1 to the Bylaws of the Groundwater Banking Joint Powers Authority.

LIST OF EXHIBITS:

Exhibit "A" – Draft Amendment No. 1 to the Bylaws of the Groundwater Banking Joint Powers Authority, clean

FIRST AMENDED BYLAWS OF THE GROUNDWATER BANKING JOINT POWERS AUTHORITY

April 8, 2021

PREAMBLE

These Bylaws are provided pursuant to Article 5(E) of the Joint Powers Agreement Between Rosedale-Rio Bravo Water Storage District and Irvine Ranch Water District creating the Groundwater Banking Joint Powers Authority to Develop and Administer a Kern Fan Groundwater Storage Project, effective as of July 1, 2020, as such agreement may be amended or modified from time to time.

1. NAME

The name of this joint powers authority formed pursuant to the Joint Exercise of Powers Act (Government Code section 6500 et seq.) is the Groundwater Banking Joint Powers Authority ("Authority" or "JPA").

2. PURPOSE

The purpose of these bylaws is to describe the processes and procedures of the Authority's governance and administration.

3. MEMBER ENTITIES

The contracting parties to the Groundwater Banking Joint Powers Authority Agreement ("Groundwater Banking JPA Agreement") dated [date] are the member entities of the Groundwater Banking JPA. The contracting parties to the Groundwater Banking JPA Agreement are the Irvine Ranch Water District ("IRWD") and the Rosedale-Rio Bravo Water Storage District ("RRB").

4. BOARD OF DIRECTORS

a. Directors

Directors shall be appointed to the Board of Directors in the manner described in Article 5.A. of the Groundwater Banking JPA Agreement.

b. Alternates

Alternates shall be appointed to serve on the Board of Directors in the manner described in Article 5.A. of the Groundwater Banking JPA Agreement.

5. BOARD MEETINGS

a. Regular Meetings

The Board of Directors shall hold at least one Regular Meeting each year. The date and time of such Regular Meetings shall be set by resolution or ordinance of the Board of Directors at the first meeting of the Board of Directors.

b. Special Meetings

The Board of Directors may hold Special Meetings upon providing at least 24 hours' notice.

c. Adjourned Meetings

The Board of Directors may adjourn any regular meeting, adjourned regular meeting, special meeting, or adjourned special meeting at any time and to any time and place permissible by law. Adjournment shall not require a quorum of the Board of Directors. If no Director is present at a noticed meeting of the Board of Directors, the [Secretary/General Manager] shall have the authority to adjourn the meeting.

The date, time, and location of the adjourned meeting shall be included on the Notice of Adjournment of any regular meeting, adjourned regular meeting, special meeting, or adjourned special meeting.

d. Meeting Locations

Meetings of the Board of Directors shall take place at the main office of RRB, 849 Allen Road, Bakersfield, CA 93390 or IRWD, 15600 Sand Canyon Avenue, Irvine CA 92618, unless otherwise stated on the public notice of the meeting.

Members of the Board of Directors may participate in meetings by teleconference pursuant to the Ralph M. Brown Act ("Brown Act") (Government Code section 54950 et seq.).

e. Notice and Agenda Procedures

The Board of Directors shall comply with the Brown Act for meeting agenda and notice requirements.

f. Quorum

A quorum of the Board of Directors shall be determined in the manner described in Article 5(C) of the Groundwater Banking JPA Agreement.

g. Rules of Order

Action by the Board of Directors requires a unanimous vote consistent with Article 5(D) of the Groundwater Banking JPA Agreement.

h. Minutes

Minutes of each meeting of the Board of Directors shall be prepared by the Secretary.

i. Delegation of Powers

The Board of Directors may delegate any of its powers except as prohibited in the Groundwater Banking JPA Agreement, these Bylaws, or by law.

j. **Transparency**

All meetings of the Board of Directors shall be conducted in accordance with the Brown Act. While meetings of the Board of Directors are generally open to any member of the public, the Board of Directors may meet in closed session for those reasons expressly allowed under the Brown Act.

The Groundwater Banking JPA shall be subject to the California Public Records Act (Government Code section 6250 et seq.).

6. COMMITTEES

a. **Standing Committees**

The Groundwater Banking JPA Board of Directors shall appoint members of standing committees as follows:

- i. **Project Committee.** There shall be a standing Project Committee to assist the Board of Directors in overseeing the planning, design, construction, construction management, and operation of the Kern Fan Project. The Project Committee shall comprise one Groundwater Banking JPA Board member and one other member appointed by RRB and one Groundwater Banking JPA Board member and one other member appointed by IRWD, plus the Groundwater Banking JPA's General Manager and its Treasurer. The Project Committee shall recommend to the Groundwater Banking JPA Board of Directors principles and guidelines for the planning, design, construction, construction management, and operation of the Kern Fan Project. The Groundwater Banking JPA Board of Directors may adopt such principles and guidelines after considering the Project Committee's recommendation and retains its full discretion to modify or reject such recommended policies.
- ii. **Finance Committee.** There shall be a Finance Committee to assist the Groundwater Banking JPA Board of Directors in overseeing the financing of the Kern Fan Project. The Finance Committee shall comprise one Groundwater Banking JPA Board member appointed by RRB and one Groundwater Banking JPA Board member appointed by IRWD, plus the Groundwater Banking JPA's General Manager and its Treasurer. The Finance Committee shall work with the Treasurer to recommend to the Groundwater Banking JPA Board of Directors policies addressing financial issues, including but not limited to: (a) purchase orders/invoices; (b) construction contracts; (c) professional services agreements; (d) change orders/variances; (e) liability/property settlements; (f) acquisition of land and easements; (g) disposition of property; (h) check-signing authority; (i) claims settlements; (j) investment policy; and (k) capitalization. The Groundwater Banking JPA Board of Directors may adopt such policies after considering the Finance Committee's recommendation and retains its full discretion to modify or reject such recommended policies.

b. **Ad Hoc Committees**

The Groundwater Banking JPA Board of Directors may appoint one or more ad hoc committees.

- c. To the extent that the Brown Act applies to Authority committees, committee members may participate in committee meetings by teleconference pursuant to the Brown Act.

7. OFFICERS

a. **General Manager**

The General Manager shall be appointed by the Board of Directors in the manner described in Article 6 of the Groundwater Banking JPA Agreement. The General Manager and any designees shall administer planning, construction and operation of the Kern Fan Project.

The Kern Fan JPA Board of Directors shall adopt one or more policies delegating certain authority to the General Manager.

b. **Treasurer**

The Treasurer shall be appointed by the Board of Directors in the manner described in Article 7 of the Groundwater Banking JPA Agreement. The Treasurer and any designees shall administer the Groundwater Banking JPA's financial management function.

The Groundwater Banking JPA Board of Directors shall adopt one or more policies delegating certain authority to the Treasurer.

c. **Legal Counsel**

The Legal Counsel shall be appointed by the Board of Directors in the manner described in Article 9 of the Groundwater Banking JPA Agreement.

d. **Secretary**

The Legal Counsel shall serve as Secretary pursuant to Article 9 of the Groundwater Banking JPA Agreement. The Secretary or any designees shall maintain the official records of the Groundwater Banking JPA, including Board meeting minutes.

e. **Resignation of Officers**

Officers may resign from their position at any time by providing the Board of Directors with written notice of their intention to resign. Such written notice should include an effective date of the resignation. The effectiveness of resignation shall not require written notice.

f. Designation of Responsibilities

Both the General Manager and the Treasurer, may from time to time, designate and assign a portion or all of their responsibilities to an individual to act on their behalf to carry out their respective duties and obligations related to the Kern Fan Project. The designee shall act with full authority on matters undertaken on the General Manager or Treasurer's behalf. The designee shall be accountable to the Groundwater Banking JPA Board of Directors, the General Manager and Treasurer and other Officers. The designee shall continue to act on behalf of the General Manager or Treasurer until revoked, which shall be effective upon notice given verbally or in writing by the General Manager or Treasurer as to their respective designees. A writing may include, but is not limited to electronic mail (e-mail).

8. STAFF

Pursuant to Article 10 of the Groundwater Banking JPA Agreement, upon formation of the Groundwater Banking JPA, the Board of Directors shall negotiate shared staff services agreements with RRB and IRWD specifying the hourly rates at which RRB or IRWD staff will provide services to the Groundwater Banking JPA. The Board of Directors shall approve and enter into one or more shared staff services agreement(s) with RRB and IRWD for planning, design, construction and operation of the Kern Fan Project.

9. PROFESSIONAL SERVICES

a. Legal Services

The Board of Directors shall have the sole authority to enter into contracts for legal services on behalf of the Groundwater Banking JPA. This power may not be delegated, regardless of the amount of the contract and any spending authority vested in any Officer [or Staff] of the Groundwater Banking JPA.

b. Audit Services

The Board of Directors shall select an Auditor in the manner provided by law.

10. FINANCE

a. Grant Compliance

The Board of Directors shall delegate responsibility for monitoring compliance with all applicable grant funding obligations to a compliance officer. The compliance officer may be a member of RRB or IRWD staff.

b. Member Funding

(1) Equal Funding Principle

The general principle governing member funding of the Groundwater Banking JPA is that RRB and IRWD shall fund equally (50-50) the costs to form the Groundwater Banking JPA, the costs to apply for and to obtain

grant funding for the Kern Fan Project, and the costs to administer, design, construct and operate the Kern Fan Project and the Authority to meet all of its objectives, including all obligations arising from acceptance of grant funding for the Kern Fan Project.

RRB and IRWD have incurred various expenses in connection with the Kern Fan Project. Specifically, prior to formation of the Groundwater Banking JPA, RRB and IRWD each incurred costs to apply for and to obtain grant funding for the Kern Fan Project, to initiate California Environmental Quality Act ("CEQA") review, to conduct studies on the feasibility of constructing and operating Kern Fan Project components, like a new turnout on the Cross Valley Canal, and to complete other tasks facilitating the Kern Fan Project. Additional costs were incurred in the form of staff and legal costs.

Some of these early implementation expenses were governed by the Agreement Between Rosedale-Rio Bravo Water Storage District and Irvine Ranch Water District for Cost Sharing Early Planning Activities for the Kern Fan Groundwater Storage Project ("Early Cost-Share Agreement") while other early implementation expenses were agreed to between RRB and IRWD outside of the Early Cost-Share Agreement.

To the extent that net costs incurred by RRB or IRWD related to these early activities are not equal (50-50), an initial reconciliation of such differences will be made between RRB and IRWD within the first fiscal quarter following the Groundwater Banking JPA's formation. To the extent that any additional costs are incurred by RRB or IRWD from obligations related to the early implementation expenses after the initial reconciliation, RRB and IRWD will make additional reconciliations until all such obligations are satisfied.

(2) Exceptions By Special Activities Agreements

The only exception to the general principle of 50-50 cost-share may arise from the Groundwater Banking JPA Board of Directors' approving one or more Special Activities Agreements that provide for RRB or IRWD to participate in or to add a component of the Kern Fan Project pursuant to article 3(d) of the Groundwater Banking JPA Agreement. Any Special Activities Agreement deviating from the 50-50 cost-share principle shall specify how costs associated with the special activities deviate from the 50-50 cost-share principle, including but not limited to any one-time costs and any ongoing costs.

(3) Initial Member Funding Contributions to Open Bank Accounts

Upon formation of the Groundwater Banking JPA, RRB and IRWD each shall contribute \$2,500 to the Groundwater Banking JPA, for a total of \$5,000, to provide a basis for opening one or more bank accounts for the Groundwater Banking JPA.

(4) ***Ongoing funding for Groundwater Banking JPA operations:***

The Board of Directors shall annually adopt a budget encompassing the reasonably anticipated costs for implementing the Kern Fan Project, plus prudent reserves. The Board of Directors shall require ongoing financial contributions from RRB and IRWD to maintain adequate bank account balances to meet the reasonably anticipated costs for implementing the Kern Fan Project and prudent reserves, after accounting for grant funding. The Board of Directors shall determine the amount and timing of such contributions by resolution.

c. **Audit Interval**

Audits of the Groundwater Banking JPA's finances shall be prepared in the manner described in Article 13 of the Groundwater Banking JPA Agreement. The cost to complete the annual audit of the Groundwater Banking JPA's finances shall be allocated half (50 percent) to RRB and half (50 percent) to IRWD.

11. SPECIAL ACTIVITIES AGREEMENTS

- a. Pursuant to article 3(D) of the Groundwater Banking JPA Agreement, either of the Parties may enter into Special Activities Agreements with the Groundwater Banking JPA providing for their independent choices whether to participate in or to add a component of the Kern Fan Project or to allow use of a Party's capacity in the Kern Fan Project to implement an independent operating program or project with a third party.
- b. No Special Activities Agreement may become legally effective without prior unanimous approval of the Groundwater Banking JPA Board of Directors.
- c. A Special Activities Agreement may result in a Party having a larger capital investment in Kern Fan Project recharge, storage, recovery or conveyance capacity than the other Party and/or result in a Party achieving greater than 50 percent of the Kern Fan Project recharge, storage or recovery capacity upon implementation of the special activity. A Special Activities Agreement may provide for the creation of a committee under which a Party may exercise proportionally greater voting power over recommendations from the committee to the Groundwater Banking JPA Board of Directors regarding the approval and administration of the Special Activities Agreement.. The committee created by a Special Activities Agreement shall make recommendations to the Groundwater Banking JPA Board of Directors regarding the administration, planning, design, construction, construction management, and operation of the special activity. The Groundwater Banking JPA Board of Directors shall retain its full discretion to modify or reject any recommendation of a committee created by a Special Activities Agreement. No Special Activities Agreement may affect the requirement that all decisions of the Groundwater Banking JPA Board of Directors must be unanimous under Section 6(g) of these Bylaws and Article 5(D) of the Groundwater Banking JPA Agreement. No Special Activities Agreement may affect the provisions for resolving deadlock decisions of the JPA Board of Directors contained in Article 5(D) of Groundwater Banking JPA Agreement and such

deadlock provisions would apply to decisions of the Groundwater Banking JPA Board of Directors related to special activities. RRB or IRWD each may carry out their own projects to help integrate the Kern Fan Project with their other projects, including interties with the Stockdale East Project, the Stockdale West Project, and the Strand Ranch Project. Such integration projects do not require a Special Activities Agreement with the Groundwater Banking JPA.

12. INSURANCE

The Finance Committee shall recommend to the Groundwater Banking JPA Board of Directors one or more policies on insurance coverage that shall be maintained for the Groundwater Banking JPA. The Groundwater Banking JPA Board of Directors shall adopt one or more such policies after considering the Finance Committee's recommendation and retains its full discretion to modify or reject such recommended policies.

13. PROJECT FACILITY OPERATION COSTS

RRB and IRWD shall pay operations, maintenance, energy and replacement ("OME&R") costs consistent with their respective proportional use of the Kern Fan Project facilities and any facilities constructed under Special Activities Agreements governing the Parties' independent choices whether to participate in or to add a component of the Kern Fan Project as follows:

- a. Variable OME&R costs include, but are not limited to, energy costs and other costs that are attributable to the use of Kern Fan Project facilities (including wear and tear) and shall be paid pro rata based on actual use of Kern Fan Project facilities by RRB or IRWD.
- b. Fixed OME&R costs include, but are not limited to, any costs on Kern Fan Project land or facilities that are incurred irrespective of use of such land or facilities, and shall be shared equally between the Parties, or as otherwise agreed in a Special Activities Agreement.
- c. RRB and IRWD shall equally split the OME&R costs associated with the public benefits or ecosystem account associated with participating in the WSIP that are not grant-funded, such as the recharge and recovery operations that are necessary to meet the project's ecosystem public benefits requirements.

RRB and IRWD shall each pay half of the Groundwater Banking JPA's costs for its insurance coverage, its annual financial audit, and its use of legal counsel. JPA insurance, audit and/or legal counsel costs attributable to a Special Activity shall be paid by the Special Activity participant(s) proportional to their respective percentage interest in the Special Activity, as defined in the relevant Special Activities Agreement.

14. TERMINATION

a. Distribution of Assets

To implement article 1(A) of the Groundwater Banking JPA Agreement, the Parties shall meet and confer prior to eighteen (18) months before expiration of the

Agreement's initial term to determine whether the Agreement will be extended. The Parties may continue to meet and confer during the last eighteen (18) months of the Agreement's initial term. If within six (6) months before expiration of the Agreement's initial term the Parties have failed to reach agreement on extending the Agreement's initial term or integrating the Kern Fan Project facilities into one or more other existing water storage and recovery programs or projects, then the Parties shall implement the Groundwater Banking JPA Agreement's provisions for Disposition of Kern Fan Project Property, Facilities and Other Assets Upon Termination.

- b. To implement articles 1(A) and 1(B) of the Groundwater Banking JPA Agreement, the Parties shall comply with the following rules:
 - i. At least six (6) months before expiration of the Groundwater Banking JPA Agreement's term, and within one year after providing any advance written notice of intent to terminate the Groundwater Banking JPA Agreement early, RRB shall deliver to IRWD either a notice exercising RRB's first right to acquire IRWD's interest in all Kern Fan Project facilities, capacities and real or personal property held by the Groundwater Banking JPA or written confirmation that RRB elects not to exercise its first right to acquire IRWD's interest in all Kern Fan Project facilities, capacities and real or personal property held by the Groundwater Banking JPA. Any RRB notice exercising its first right to acquire shall comply with the valuation rules specified in article 1(B) of the Groundwater Banking JPA Agreement.
 - ii. If RRB confirms in writing its election not to exercise its first right to acquire IRWD's interest in all Kern Fan Project facilities, capacities and real or personal property held by the Authority, or fails to provide such written confirmation within the time constraints above, then article 1(B) of the Groundwater Banking JPA Agreement provides that IRWD may hold its interest or sell its interest to a mutually acceptable third party. Upon IRWD notifying RRB of a proposed third-party buyer for IRWD's interest in the Kern Fan Project, RRB shall have 180 days to deliver its approval or rejection of IRWD's proposal, unless the Parties mutually agree in writing to extend the 180-day period. If RRB fails to affirmatively approve or reject IRWD's proposal within 180 days or any mutually agreed time extension, IRWD's proposal shall be deemed approved by RRB.

15. AMENDMENTS

The Board of Directors may adopt, amend, or repeal any section of these Bylaws, except insofar as such a change would conflict with the Groundwater Banking JPA Agreement.

16. RECORDS AND REPORTS

a. Maintenance of Records

Records of the Groundwater Banking JPA shall be maintained at the principal places of business of the member agencies, Kern Fan Project facilities, and any other facility designated by the Board of Directors, Officers, or Staff. In addition to

maintaining financial accounting and other records, the Groundwater Banking JPA shall maintain at least the following water accounting records for the Kern Fan Project:

- i. Amount of water delivered for recharge by each Party and the source of all water delivered for recharge;
- ii. Amount of stored water to provide ecosystem public benefits;
- iii. Amount of IRWD stored water; and
- iv. Amount of RRB stored water.

b. Public Records

Requests for the inspection of any public record maintained by the Groundwater Banking JPA shall be handled in accordance with the California Public Records Act (Government Code section 6250 et seq.).

c. Inspection Rights of Directors and Members

Directors and designated representatives of the member agencies shall have an absolute right to inspect the records of the Groundwater Banking JPA with reasonable notice to the Groundwater Banking JPA. Any records determined to be confidential by the Groundwater Banking JPA, in consultation with its Legal Counsel, may be designated as such and may be reviewed subject to the execution of a non-disclosure agreement; the review of confidential documents by directors and designated representatives shall not act as a waiver of any applicable privileges.

d. Fiscal Year

The Fiscal Year of the Groundwater Banking JPA shall begin on July 1st of each calendar year and close on June 30th of each calendar year.

17. CONSTRUCTION

Any section of these Bylaws that is determined to be inconsistent with any term of the Groundwater Banking JPA Agreement or any applicable law shall be deemed to be ineffective for so long as the conflicting term of the Groundwater Banking JPA Agreement or applicable law remain in effect. Such construction shall not affect the applicability of any other section of these Bylaws.

Proposed Property Acquisition Process Guidelines

DISCUSSION:

The Kern Fan Groundwater Recharge Project will require the Board of Directors and Project Committee to evaluate and approve potential properties during the land acquisition phase of the project. To facilitate the property purchase process, staff has drafted Property Acquisition Process Guidelines (Guidelines) for the Board's review and feedback.

Property Acquisition Process Guidelines:

The Guidelines are intended to provide the Board and Project Committee with multiple opportunities for input during the evaluation of target properties and due diligence process, as well as providing approvals / authorizations to enter into and close transactions. The proposed Guidelines are also intended to provide reasonable parameters to allow for flexibility during the offer/negotiating process. The proposed Guidelines are attached as Exhibit "A", and staff will review in more detail at the meeting.

RECOMMENDATION:

Receive and file.

LIST OF EXHIBITS:

Exhibit "A" – Proposed GBJPA Land Acquisition Process Guidelines

Groundwater Banking Joint Powers Authority
Property Acquisition Process Guidelines DRAFT

I. Purpose:

The following guidelines describe the process for land acquisitions for the Kern Fan Groundwater Recharge Project. The proposed process provides multiple opportunities for GBA Project Committee (Committee) and Board input during the evaluation of all identified target properties, as well as the approvals / authorizations to enter into transactions.

At least during the initial months of analyzing any proposed acquisitions, the Committee's role is to focus on reviewing and evaluating due diligence findings for recharge, soils, etc. and making a final recommendation to the Board to proceed (or not) with the purchase.

As stipulated in the Joint Power Agreement, the Board retains the sole power to authorize execution of final Purchase and Sale Agreements (PSA). Unless an offer needs to be made within a deadline that does not allow for input of the full GBA Board, all offers shall be pre-authorized by the Board before being presented to the seller. Any offer presented to the seller without prior Board authorization shall be made subject to approval of the full GBA Board.

II. Land Acquisition Process:

1. Identification of Target Properties (*Lead: Rosedale and Alliance Ag*):

- The GBA has retained Mike Ming of Alliance Ag to assist in identifying suitable water banking properties for the project and to provide brokerage services for the successful purchase of properties for the project.
- Rosedale will leverage its standing in the community and relationships with local landowners to assist in identifying suitable / preferable water banking properties for the project, including making initial contact with potential sellers when appropriate.
- Key considerations in assessing potential properties include:
 - Location of property (e.g., proximity to preferred canal alignment location(s), within / not within a water storage district's boundary, etc.);
 - Soil conditions;
 - Estimated recharge rates and proximity to nearby recharge facilities;
 - Acreage available;
 - Estimated purchase price;
 - Current use of property (permanent plantings or crops;)
 - Property constraints (e.g., existing land use impacts, surface and/or groundwater contaminants, etc.); and
 - Owner(s) interest in selling and other relevant information regarding owner(s).

Groundwater Banking Joint Powers Authority

Property Acquisition Process Guidelines DRAFT

2. Evaluation of Identified Properties, Authorization to Submit Letters of Interest to Purchase, and Establish Negotiating Parameters (*Lead: GBA Board*):
 - Based on recommendations from staff and Alliance Ag, consider potential properties for acquisition.
 - Consider authorizing issuance of non-binding Letters of Interest (LOI).
 - Provide acceptable parameters (price/terms) for General Manager to effectively negotiate with landowners following submittal of LOIs.
 - Review additional price/terms considerations when necessary depending on status of negotiations and authorize revised parameters when appropriate.
 - Upon successful completion of negotiations of Board-approved price and terms, authorize the General Manager/staff to:
 - Prepare and execute a Purchase and Sale Agreement (in consultation with legal counsel);
 - Proceed with escrow and title process;
 - Retain consultants to complete required studies and all other related due diligence requirements.
3. Review of Due Diligence Findings (*Lead: GBA Project Committee*):
 - Following the due diligence investigation of a property, staff will provide report of findings for Committee review. The report will include:
 - Recharge suitability for water banking;
 - Findings from consultant's Phase I and other related studies;
 - Title constraints/considerations; and
 - Other relevant due diligence information.
 - Based on its review, the Committee may:
 - Recommend that the Board approve the proposed purchase;
 - Recommend that the Board terminate the proposed purchase;
 - Forward consideration of the proposed purchase to the Board without a recommendation; or,
 - Provide a recommendation to modify the purchase price and/or terms.
4. Final Approval of Land Purchases (*GBA Board*):
 - Based on Committee's review and recommendation, staff will provide a summary of its report of findings for Board review and consideration of final approval (or disapproval/modification of price/terms) prior to completion of any land purchase. The report will include:
 - A summary of the property description and deal terms;
 - Recharge suitability for the project;
 - Findings from consultant's Phase I and other related studies;
 - Title constraints/considerations; and
 - Other relevant due diligence information.

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III. GBA Staff Key Responsibilities:

1. The following is a summary of the responsibilities of the GBA staff:
 - Provide identified target properties to the Board when appropriate to discuss recommended submittal of LOIs with all relevant background information.
 - Keep the Board apprised of the identification and evaluation of potential properties and ongoing discussions with potential sellers, as needed, through a tracking spreadsheet.
 - Develop and submit LOIs as authorized by the Board.
 - Negotiate with landowners based on authorized LOI price and terms and negotiating parameters.
 - Provide land acquisition status updates to the Committee and/or Board as appropriate.
 - Work with legal counsel to prepare required Purchase and Sale Agreements and other related purchase documents.
 - Manage due diligence process with consultants to determine suitability of property.
 - Manage escrow/title process to completion of purchase.