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*Imperial County  
Local Agency Formation Commission*

**JOINT POWERS AGREEMENT**

**CREATING THE**

**CALIFORNIA RURAL WATER RISK MANAGEMENT AUTHORITY**

**(CRWRMA)**

**April 1, 2016**

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**CALIFORNIA RURAL WATER RISK MANAGEMENT AUTHORITY**  
**(CRWRMA)**  
**JOINT POWERS AGREEMENT**

This *Agreement* is made by and among the public water entities and mutual water companies listed in Appendix A (*Member Entities*), which shall be updated periodically, all of which are categorized as either:

- 1) Public entities organized and operating under the laws of the State of California and each of which is a local public entity as defined in California Government Code Section 989; or
- 2) Mutual water companies as defined in Section 14300 of the State of California Corporations Code.

**RECITALS**

1. The following state laws, among others, authorize the *Member Entities* to enter into this *Agreement*:
  - A. Government Code Sections 989 and 990 permitting a local public entity to insure itself against liability and other losses;
  - B. Government Code Section 990.4 permitting local public entities to provide insurance and self-insurance in any desired combination;
  - C. Government Code Section 990.8 permitting a mutual water company and a public agency as authorized under subdivision (b) of Section 6525; to provide insurance authorized by this part or for any other purpose by any one or more of the methods specified in Section 990.4; and
  - D. Government Code Sections 6500-6525 permitting two or more local public entities, or a mutual water company and a public agency to enter into a joint

powers agreement for the purpose of risk-pooling in accordance with Section 990.8.

2. Each undersigned agency has determined that it is in its own best interest and in the public interest that this *Agreement* be executed and that it shall participate as a *Member* of the public entity created by this *Agreement*.

NOW, THEREFORE, the undersigned, in consideration of the mutual benefits, promises and agreements set forth below, hereby agree as follows:

## ARTICLE I

### CREATION OF CALIFORNIA RURAL WATER RISK MANAGEMENT AUTHORITY

Pursuant to Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California (commencing with Section 6500), the parties hereto hereby create a public authority, separate and apart from the parties hereto, to be known as the California Rural Water Risk Management Authority, hereinafter referred to as *CRWRMA*. Pursuant to Government Code Section 6508.1, the debts, liabilities, and obligations of *CRWRMA* shall not constitute debts, liabilities, or obligations of the *Member Entities*.

## ARTICLE II

### PURPOSE

This *Agreement* is entered into by *Member Entities* pursuant to the provisions of California Government Code Sections 990, 990.4, 990.8, and 6500-6525 et seq., to:

- A. Reduce costs through effective risk management, loss control, claims management and risk financing;
- B. Increase stability of rates through long-term insurance market relationships, stable program membership and financial planning;

- C. Provide high quality services responsive to the unique needs of public water systems and exceed insurance industry norms for loss control, claims management, training, communication and program management;
- D. Reduce severity and frequency of losses through research, improved training and the implementation of effective safety practices and procedures; and
- E. Participate in the management of the risk financing program.

### ARTICLE III

#### DEFINITIONS

Unless the context otherwise requires, the following terms shall be defined as herein stated:

- A. "Administrative Fees" shall mean fees separate and apart from the *Contribution* that each *Member* shall be charged on an annual basis. This charge will include the fees for the Program Administrator and other incidental administrative costs.
- B. "Agreement" shall mean the joint powers agreement creating the California Rural Water Risk Management Authority.
- C. "Board" or "Board of Directors" shall mean the governing body of *CRWRMA*.
- D. "Contribution" shall mean an amount to be paid by each *Member* for the cost of coverage provided *Members* participating in *CRWRMA's Coverage Programs*.
- E. "CRWRMA" shall mean the California Rural Water Risk Management Authority created by the *Agreement*.
- F. "Coverage Program" or "Program" shall mean all features of a program that *CRWRMA* provides to *Member Entities* pursuant to a *Memorandum of Coverage* or is arranged by *CRWRMA* to be provided by a commercial insurer or other 3rd party coverage provider.

- G. "Insurance" shall mean that commercial insurance or reinsurance purchased by CRWRMA to cover *Member Entity's* losses within a *Coverage Program*.
- H. "Member" or "Member Entity" shall mean any organization that is a party to the *Agreement*. A *Member* is one who has been accepted into CRWRMA and, is a Named Covered Party in a *Memorandum of Coverage* and endorsements thereto.
- I. "Memorandum of Coverage" shall mean a document issued by CRWRMA to a *Member* specifying the type, amount, terms and conditions of coverage provided to a *Member* by CRWRMA.
- J. "Program Year" shall mean a period of time determined by the *Board*, usually twelve (12) months, into which each *Coverage Program* shall be segregated for purposes of accounting and record-keeping.
- K. "Program Underwriter" shall mean the person or entity designated by the *Board of Directors* to carry out the duties as set forth in the Bylaws.
- L. "Representative" shall mean the person designated by a *Member* to act as a liaison between the *Member Entity* and the *Board of Directors* of CRWRMA. The *Representative* shall have the authority to bind the *Member* on any and all matters relating to the business of CRWRMA.



## ARTICLE IV

### PARTIES TO AGREEMENT

Each party to this *Agreement* certifies that it intends to, and does, contract with all other parties who are signatories of this *Agreement* and, in addition, with such other parties as may later be added as parties to, and signatories of, this *Agreement* pursuant to Article XX. Each party to this *Agreement* also certifies that the deletion of any party from this *Agreement* shall not affect this *Agreement* or the remaining parties' intent to contract as described above with the other parties to the *Agreement* then remaining.

## ARTICLE V

### TERM OF AGREEMENT

This *Agreement* shall become effective when executed by at least one public water entity and one or more mutual water companies and shall continue in full force until terminated in accordance with Article XXIV, with continuation beyond the first *Program Year* subject to total *CRWRMA* annualized *contributions* in the first *Program Year* of \$1 million or more.

## ARTICLE VI

### POWERS OF CRWRMA

*CRWRMA* is authorized, in its own name, to do all acts necessary to fulfill the purposes of this *Agreement* as referred to in Article II, including, but not limited to:

- A. Make and enter into contracts;
- B. Incur debts, liabilities and obligations;
- C. Acquire, hold or dispose of real and personal property;

- D. Receive donations of property, funds, services and other forms of assistance from any source;
- E. Sue and be sued in its own name;
- F. Employ agents and employees;
- G. Lease real or personal property;
- H. Receive, collect, invest and disburse monies;
- I. Develop, implement and administer *Coverage Programs* as the *Board* approves;
- J. Admit and expel *Members* pursuant to Article XXII of this *Agreement* and the *CRWRMA's* Underwriting Guidelines;
- K. Issue revenue bonds or other forms of indebtedness, as provided under Government Code Sections 6500; and
- L. Undertake such other activities as may be necessary to carry out the terms, provisions and purposes of this *Agreement*.

These powers shall be exercised in the manner provided by applicable law and as expressly set forth in this *Agreement*.

## ARTICLE VII

### REINSURANCE

At the inception of the *CRWRMA* and for at least the first three (3) Program Years, it is expected that all *Coverage Programs* of the *CRWRMA* will be fully reinsured by a reinsurance company with an A.M. Best rating of "A" or better. Other arrangements may be evaluated and approved by the *Board of Directors* in later *Program Years*.

## ARTICLE VIII

### MEMBERS' POWERS AND RESPONSIBILITIES

#### A. POWERS

The *Members* shall have the following powers:

1. To delegate to the *Board of Directors* certain powers including the approval of the *Agreement*;
2. To appoint a *Representative* to vote on issues as provided in this *Agreement*;
3. To decide if and when the *Agreement* should be terminated pursuant to Article XXIV of this *Agreement*; and
4. To decide if and when to withdraw from the *Coverage Program* subject to the terms of this *Agreement*.

#### B. RESPONSIBILITIES

The *Members* shall have the following responsibilities:

1. To pay *Contributions* and *Administrative Fees* promptly to *CRWRMA* when due;
2. To cooperate fully with *CRWRMA* and any *Program Underwriter* in determining and documenting the facts surrounding losses and the strategies for settlement of claims, as defined in the *Memorandum of Coverage*;
3. To comply with all requirements placed on the *Member* by *CRWRMA*;
4. To provide *CRWRMA* and any *Program Underwriter* with such loss and claims data, exposure information and other information necessary for *CRWRMA* and any *Program Underwriter* to carry out the purposes of this *Agreement*;
5. To cooperate with and assist *CRWRMA* and any *Program Underwriter*, insurer or reinsurer, claims adjuster, claims auditor, or legal counsel retained by *CRWRMA* in all matters relating to this *Agreement*;

6. To comply with the Bylaws and all *policies* and procedures adopted by the *Board*;  
and
7. To abide by all decisions of the *Board*.

## ARTICLE IX

### BOARD OF DIRECTORS

There shall be a *Board of Directors* to govern the affairs of *CRWRMA*. The powers of the *Board*, unless otherwise delegated pursuant to the Bylaws, shall be all of the powers of *CRWRMA* not specifically reserved to the *Members* by this *Agreement* and shall include, but not be limited to, Article VI of this *Agreement*.

## ARTICLE X

### COMMITTEES

The *Board* may create committees as it deems appropriate including an Executive Committee. The Executive Committee shall be comprised of members of the *Board*. The *Board* may elect to delegate one or more of its powers to the Executive Committee except those powers not delegable pursuant to the Bylaws. An appointment to the Executive Committee, if any, is by an election of the *Board of Directors* shall be addressed in the Bylaws.

## ARTICLE XI

### ELECTION, APPOINTMENT AND DUTIES OF OFFICERS

The election, appointment and duties of officers shall be as set forth in the Bylaws.

## ARTICLE XII

### MEETINGS AND RECORDS

#### A. BOARD MEETINGS

The *Board* shall hold at least one (1) regular meeting each fiscal year. The *Board* shall fix the date, hour and place at which each regular meeting is to be held in accordance with the Bylaws. Special meetings may be called and noticed in accordance with the Bylaws.

Each meeting of the *Board*, including, without limitation, regular, adjourned regular and special meetings, shall be called, noticed, held and conducted in accordance with the Ralph M. Brown Act (Section 54950, et. seq. of the Government Code).

**B. RECORDS**

The Secretary shall keep or have kept minutes of all regular, adjourned regular and special meetings of the *Board* and its Committees, to the extent that they exist. As soon as practical after each meeting, the Secretary shall forward a copy of the minutes to each member of the *Board*. *Board* meeting minutes shall be made available to *Representatives* upon request.

**ARTICLE XIII**

**BYLAWS AND ADMINISTRATIVE POLICIES AND PROCEDURES**

The *Board* shall through resolution, adopt, rescind or amend Bylaws and administrative policies and procedures consistent with applicable law and this *Agreement* to govern the day-to-day operations of *CRWRMA*. Upon request, *Representatives* shall be provided with a copy of any Bylaws, and administrative policies and procedures developed under this Article.

**ARTICLE XIV**

**FISCAL YEARS**

For the first three years, *CRWRMA's* fiscal year shall begin on April 1 and end on March 31. Thereafter, a change in the fiscal year period may be approved by the *Board of Directors*.

**ARTICLE XV**

**BUDGET**

The *Board* shall adopt an annual budget prior to the beginning of each *Program Year*.

## ARTICLE XVI

### FINANCIAL AUDITS

The *Board* shall cause a financial audit as set forth in the Bylaws. Such financial audit shall be filed with the State Controller and other agencies as required by law.

## ARTICLE XVII

### ESTABLISHMENT AND ADMINISTRATION OF FUNDS

*CRWRMA* shall comply with all provisions of law relating to the subject, particularly Section 6505 of the California Government Code.

All of the monies of *CRWRMA* may be invested in common. However, each *Program Year* shall be accounted for separately on a full accrual basis.

The Treasurer shall receive, invest and disburse funds only in accordance with the guidelines and procedures established by the *Board* in an investment policy to be adopted which shall be in conformity with applicable law.

## ARTICLE XVIII

### CONTRIBUTIONS AND ADMINISTRATIVE FEES

*Contributions* and *Administrative Fees* for each *Member* shall be calculated as provided for in the Bylaws.

## ARTICLE XIX

### COVERAGE PROGRAMS

The *Board* may adopt such *Coverage Programs* as it deems necessary to further the goals of its *Members*. Each *Coverage Program* in each *Program Year* shall be defined by a *Memorandum of Coverage* and such other documents as the *Board* determines are necessary to fully describe the features of the *Program* to *Members*.

## ARTICLE XX

### NEW MEMBERS

Only entities that are members of the California Rural Water Association and meet the criteria set forth in *CRWRMA's* Underwriting Guidelines adopted by the *Board of Directors* shall be admitted as *Members* to the *CRWRMA*.

## ARTICLE XXI

### WITHDRAWAL

Any *Member* of *CRWRMA* may withdraw from its status as a *Member* and as a party to the *Agreement* only after participation for at least three (3) full *Program Years*. The withdrawal may be effected only at the end of a *Program Year* or at any other time agreed to by the *Board*.

*Members* seeking to withdraw must:

- 1) Submit a provisional notice in writing to *CRWRMA* at least twelve (12) months prior to the end of the *Program Year* advising that it intends to withdraw; and
- 2) Submit a final notice of withdrawal in writing at least ninety (90) days prior to the end of the *Program Year*.



The withdrawing *Member's* final notice of withdrawal shall be irreversible upon its receipt by *CRWRMA* unless the *Board* votes to accept a rescission by the *Member*.

The withdrawal of any *Member* shall not terminate its responsibility to pay *Contributions* and *Administrative Fees* for any *Coverage Program* it participated in until all claims, or other costs, during the period of the *Member's* participation have been finally resolved and a determination of the final amount due by the *Member* has been made by the *Board*.

After withdrawal, the withdrawing *Member* shall continue to be responsible for any *Contributions* and *Administrative Fees* not paid during its years of membership.

## ARTICLE XXII

### EXPULSION

*CRWRMA* may expel any *Member*, with or without cause, as a participant in any *Coverage Program* or as a *Member* of *CRWRMA* as provided in the Bylaws.

## ARTICLE XXIII

### EFFECT OF WITHDRAWAL OR EXPULSION

The withdrawal or expulsion of any *Member* after the inception of its participation in any *Coverage Program* shall not terminate its responsibility to:

- A. Cooperate fully with *CRWRMA* and any *Program Underwriter* in determining and documenting the facts surrounding losses and the strategies for settlement of claims, as defined in the *Memorandum of Coverage*;
- B. Pay any *Contributions* and *Administrative Fees* determined by the *Board* to be due and payable for each *Program Year* in which it participated, as well as *Contributions* and *Administrative Fees* for continuing required services in

subsequent years until all *Program Years* in which the *Member* participated have been closed;

- C. Provide *CRWRMA* and any *Program Underwriter* with such loss and claims data, exposure information and other information necessary for *CRWRMA* to carry out the purposes of this *Agreement*; and
- D. Cooperate with and assist *CRWRMA*, any *Program Underwriter*, insurer or reinsurer, claims adjuster, claims auditor or legal counsel retained by *CRWRMA*, in all matters relating to this *Agreement*.

## ARTICLE XXIV

### TERMINATION AND DISTRIBUTION

This *Agreement* may be terminated any time during the first three (3) *Program Years* by the written consent of all *Members*, and thereafter by the written consent of two-thirds (2/3rds) of the *Members*. However, following such decision to terminate the *Agreement*, this *Agreement* and *CRWRMA* shall continue to exist for the purpose of disposing of all claims, distributing assets and all other functions necessary to conclude the affairs of *CRWRMA*.

Upon termination of this *Agreement*, all assets of *CRWRMA* shall be distributed only among the *Members* that have been participants in the *Coverage Programs*, including any of those *Members* which previously withdrew or were expelled pursuant to Articles XXI and XXII respectively, of this *Agreement*, in accordance with and proportionate to *Contributions* and *Administrative Fees* paid during the term of this *Agreement*. The *Board* shall determine such distribution within six (6) months after the last pending claim or loss covered by this *Agreement* has been finally resolved and there is a reasonable expectation that no new claims will be filed.

The *Board* is vested with all powers of *CRWRMA* for the purpose of concluding and dissolving the business affairs of *CRWRMA*. These powers shall include the power to require *Members*, including those which were *Coverage Program* participants at the time the claim arose or at the time the loss was incurred, to pay their share of any *Contributions* and *Administrative Fees*

deemed necessary by the *Board* for final disposition of all claims and losses covered by this *Agreement* for any *Program Year*.

## ARTICLE XXV

### NOTICES

Notices to *Members* under this *Agreement* shall be sufficient if mailed by either regular mail or electronic mail (email) to their respective addresses on file with *CRWRMA*. Notices to *CRWRMA* shall be sufficient if mailed to the address of *CRWRMA* as adopted by the *Board*.

## ARTICLE XXVI

### PROHIBITION AGAINST ASSIGNMENT

No *Member* may assign any right, claim or interest it may have under this *Agreement*, and no creditor, assignee or third party beneficiary of any *Member* shall have any right, claim or title to any part, interest, funds, premiums, *Contributions*, *Administrative Fees* or asset of *CRWRMA*.

## ARTICLE XXVII

### AMENDMENTS

This *Agreement* may be amended by written approval of two-thirds (2/3rds) of the *Representatives*. Upon signature of any amendment by two-thirds (2/3rds) of the *Representatives*, any *Member* failing or refusing to abide by such amendment may be expelled in accordance with the provisions of Article XXII.

## ARTICLE XXVIII

### SEVERABILITY

Should any portion, term, condition or provision of this *Agreement* be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California; or be otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions and provisions shall not be affected thereby.

## ARTICLE XXIX

### HOLD HARMLESS AND INDEMNIFICATION

Section 895.2 of the California Government Code imposes certain tort liability jointly upon entities solely by reason of such entities being parties to an agreement as defined in Section 895 of said Code. Therefore, the *Members* hereto, as between themselves, pursuant to the authorization contained in Sections 895.4 and 895.6 of the California Government Code, each assumes the full liability imposed upon it or any of its officers, agents, or employees by law for injuries or losses caused by a negligent or wrongful act or omission occurring in the performance of this agreement to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve this purpose, each *Member* indemnifies and holds harmless all other *Members* for any loss, cost, or expense that may be imposed upon such other *Member* when solely by virtue of Section 895.2 of the California Code. No *Member* shall be jointly and severally liable for any debts or obligations of *CRWRMA* or any other *Member*.

## ARTICLE XXX

### GOVERNING LAW

This *Agreement* shall be deemed to be made in, and in all respects shall be interpreted, construed and governed by and in accordance with the laws of the state of California, without regard to principles of conflicts of laws.

## ARTICLE XXXI

### ARBITRATION

- A. Any dispute, controversy or claim arising out of or relating to the *Agreement*, or the breach thereof, shall be resolved by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, including, if applicable, the Supplementary Procedures for Large, Complex Commercial Disputes, in effect on the date of this *Agreement* (the "Rules"), subject to the provisions of this Article XXXI. Any inconsistency between the Rules and the provisions of this Article XXXI will be decided by a majority of the arbitrators upon application of one or more of the parties. If the arbitrators determine that an inconsistency exists, the provisions of this Article XXXI will control and supersede the Rules. The parties fully and completely agree that any dispute, controversy or claim under this *Agreement* shall not be consolidated with any dispute, controversy or claim under any other agreement between the parties without the consent of all parties hereto.
- B. The arbitration proceeding shall be conducted in Sacramento, California, or at such other place as may be selected by mutual agreement of the parties hereto.
- C. The arbitration proceeding shall be conducted by a three (3) person panel. Within twenty (20) days after the commencement of arbitration, each party shall select one person to act as an arbitrator. These party arbitrators may initially serve in a non-neutral capacity, but shall not be under the control of a party or have a financial or other person interest in the outcome of the arbitration. The two selected party arbitrators shall select a third neutral arbitrator within twenty (20) days of their appointment. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the American Arbitration Association. The parties shall agree on an appropriate cut-off date for ex-parte communications between each party and its selected arbitrator at which time the selected party arbitrators shall become neutral. In the absence of an agreement, the arbitration panel shall decide on such cut-off date.

D. The parties fully and completely agree that the arbitrators shall give effect to the substantive law of the State of California.

**ARTICLE XXXII**

**AGREEMENT COMPLETE**

The foregoing constitutes the full and complete *Agreement* amongst the parties. There are no oral understandings or other agreements not set forth in writing herein.

**ARTICLE XXXIII**  
**EXECUTION OF COUNTERPARTS**

This *Agreement* may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, but altogether shall constitute one and the same *Agreement*.

IN WITNESS WHEREOF, the parties, intending to be legally bound, hereto have executed the *Joint Powers Agreement* as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**By:**

\_\_\_\_\_  
**Public Water Entity or Mutual Water Company**

**By:**

\_\_\_\_\_  
**Authorized Representative**

\_\_\_\_\_  
**Print Name**

\_\_\_\_\_  
**Date**

COUNTERSIGNATURE

**By:**

\_\_\_\_\_  
**CRWRMA Authorized Representative**

\_\_\_\_\_  
**Print Name**

\_\_\_\_\_  
**Date**

# memorandum

November 4, 2019

TO: Cities/County/Special Districts in Imperial County

FROM: Jurg Heuberger, Executive Officer

RE: SB 1266 (McGuire) REMINDER

RECEIVED

DEC 05 2019

Imperial County  
Local Agency Formation Commission

This is a follow-up regarding Senate Bill 1266 that was approved by the Governor on August 22, 2016. This bill requires joint power authorities (JPA's) or joint power agencies that provide municipal services to file joint powers agreements and amendments with the Local Agency Formation Commission.

Specifically, this bill:

- 1) Requires a JPA to be filed with LAFCO, the full text of the joint power's agreement, and any amendments to the agreement, in the same manner as filed with the State Controller under existing law, if the JPA:
  - a. Meets the definition of a JPA provided in existing law which defines a JPA formed for the local performance of governmental functions that include the provisions of municipal services; and,
  - b. Includes a local agency member that is a city, county or district.
- 2) Requires the filing to be with the LAFCO in each county within which all or any part of a local agency's member's territory is located.
- 3) Requires a JPA formed prior to January 1, 2017, and that meets the criteria in (1) have, to file a copy of the (original) agreement and any amendments to the agreement with the LAFCO in each county which all or any part of a local agency's territory is located no later than July 1, 2017
- 4) Prohibits any agency or entity administering a joint powers agreement or amendment to an agreement which fails to file the above notice(s) with a LAFCO, from issuing any bonds or incurring indebtedness of any kind until filings are completed.

The Imperial LAFCO does not have a JPA regulatory and review authority under this law. Our role is to serve as a depository for associated filings.

The attached list represents the JPA's submitted by your agency. We are requesting that your agency respond by providing copies of any new/amended JPA agreements or by providing a letter stating your agency does not have any JPA's that fall under this requirement.

Please submit via e-mail to [pg@iclafco.com](mailto:pg@iclafco.com). You may also reach our office at 760-353-4115 with any questions.

APN

Sincerely,



PROJECT ID No.

Jurg Heuberger  
Executive Officer

FILE ID No.