

**AGREEMENT BETWEEN THE REGIONAL WATER AUTHORITY
AND THE SACRAMENTO GROUNDWATER AUTHORITY FOR
ADMINISTRATIVE AND MANAGEMENT SERVICES**

This Agreement was made and entered into on the 23rd day of May, 2002, and is amended on the 9th day of September, 2004, by and between the Regional Water Authority (“RWA”), a joint exercise of powers authority formed under California Government Code section 6500, *et seq.* (“the Joint Powers Authority Act”), and the Sacramento Groundwater Authority (“SGA”), also a joint exercise of powers authority formed under the Joint Powers Authority Act.

RECITALS

A. RWA is a joint powers authority, formed to serve and represent regional water supply and to assist its members in protecting and enhancing the reliability, availability, affordability and quality of water resources.

B. RWA is a successor in interest to all rights and obligations of the Sacramento Metropolitan Water Authority.

C. SGA is a joint powers authority, created by the City of Citrus Heights, the City of Folsom, the City of Sacramento, and the County of Sacramento for the purpose of managing the North Area Groundwater Basin through regulatory activities and conjunctive use programs.

D. SGA is a successor in interest to all rights and obligations of the Sacramento North Area Groundwater Management Authority.

E. RWA and SGA serve many common constituents and perform numerous common functions and activities, with the objective of preserving and protecting the water supplies for present and future uses in the Sacramento region.

F. RWA and SGA are successors in interest to the *Agreement Between the Sacramento Metropolitan Water Authority and the Sacramento North Area Groundwater Management Authority Regarding Administrative Cost Sharing Arrangements*, dated July 27, 2000 (hereinafter, “2000 Cost Share Agreement”), which obligates SGA and RWA each to pay 50% of all common administrative expenses of the RWA and SGA.

G. The purpose of this agreement is to delineate an efficient and effective arrangement for administration and management of services and for ownership of assets and property common to the RWA and SGA.

AGREEMENT

1. Recitals Incorporated. The foregoing recitals are hereby incorporated by reference.

2. Definitions. Except as otherwise provided in this Article, terms used in this Agreement shall be given their common meaning.

- a. Common Costs.** Common Costs shall include Employee Costs and costs for Goods and Services of benefit to both RWA and SGA. RWA and SGA shall each be responsible for 50% of Common Costs, unless both the RWA and SGA Boards agree in writing to a different allocation for individual Employees or specific Goods and Services. Budgets, budget items, or written agreements duly adopted and approved by the SGA and RWA Boards may be used to authorize or adjust a Common Cost and/or allocation formula.
- b. Employees.** Employees shall include all full-time and part-time personnel and staff hired and retained by RWA to act for the benefit of both RWA and SGA. All Employees shall be employees of RWA and agents of SGA. Unless expressly stated otherwise in a separate agreement, all Employees shall act for the benefit of RWA and SGA.
- c. Employee Costs.** Employee Costs shall include Employee salaries, benefits, allowances, health plans, vacation pay, Public Employees Retirement System participation payments, workers' compensation insurance, and any other employment-related cost, whether set forth in an employment agreement or otherwise.
- d. Goods and Services.** Goods and Services shall include supplies, equipment, furniture, rents, leases, clerical services, or any other goods or services acquired or retained for the benefit of both RWA and SGA. Auditing services shall be included as Goods and Services, but legal and other consultants' services shall not be included as Goods and Services, unless SGA and RWA agree otherwise in writing as to specified services. Goods and Services shall be administered by RWA through contracts and agreements between RWA and Goods and Services providers, provided that the SGA Board, or a committee thereof, is consulted prior to entering into or materially modifying any such agreement or contract.
- e. Ownership of Goods and Other Assets.** Unless otherwise specified in a writing approved by the RWA and SGA Boards,

ownership of Goods and other assets acquired as a common benefit to the RWA and SGA shall be prorated between RWA and SGA in proportion to the allocation of the Common Costs for the specific Goods or assets.

3. Term. This Agreement shall remain in effect until terminated by one of the parties in writing, with thirty days notice.

4. RWA Obligations. RWA shall be responsible for employing Employees, contracting for Goods and Services, and paying Common Costs. RWA shall submit monthly invoices to SGA for payment of SGA's share of Common Costs.

5. SGA Obligations. SGA shall be responsible for paying RWA for SGA's share of Common Costs within 15 days of receiving an invoice from RWA.

6. Separate Financial Accounts. RWA and SGA shall maintain separate bank and financial accounts. Nothing in this Agreement shall be construed to allow either RWA or SGA to draw from or access any account of the other party.

7. Insurance.

- (a) RWA and SGA shall carry separate insurance policies sufficient to cover each entity's potential liabilities and exposures arising from their operations, except that only RWA will procure worker's compensation insurance necessary to cover all Employees as required by Labor Code section 3700 and any authorized volunteers of either party pursuant to Labor Code section 3363.5. RWA's obligation to secure workers' compensation insurance coverage for SGA's employees and authorized volunteers is authorized pursuant to Labor Code section 3602, subdivision (d) and specifically agreed to by the parties herein.
- (b) In accordance with paragraph 2.d., all insurance premiums will be considered Goods and Services, which RWA will purchase as provided in paragraph 4 of this Agreement. All insurance premium payments made by RWA on behalf of both entities will be aggregated and SGA will pay 50% of the aggregate premiums to RWA in accordance with paragraph 5 of this Agreement.
- (c) If either RWA or SGA becomes liable to any third party on a claim, judgment, arbitration award, settlement, administrative order or on any other basis ("Claim"), RWA and SGA shall be responsible for payment of such Claim as follows:
 - (i) For any Claim made, brought, incurred, accepted or assessed against RWA or SGA as its sole and separate liability, the responsible entity shall pay the claim 100% from its own funds to the extent of any deductible or self-insurance, and then to the extent of the liable party's insurance coverage.

- (ii) For any Claim made, brought, incurred, accepted or assessed against both RWA and SGA as their joint and several liability in an amount no greater than the amount of each entity's insurance deductible applicable to the Claim, then RWA shall pay the Claim amount and bill SGA for 50% of that amount in accordance with paragraphs 4 and 5 of this Agreement.
 - (iii) For any Claim made, brought, incurred, accepted or assessed against both RWA and SGA as their joint and several liability in excess of \$50,000, each entity would first tender such Claim to its insurance provider for coverage. If the Claim is subject to some form of adjudication, RWA and SGA will each be responsible for that portion of liability on the Claim that is apportioned to each, up to the deductible amount of any insurance, and then all liability amounts in excess of the deductible amount will be apportioned between the insurance policies as determined by RWA's and SGA's insurer(s). In no case, however, will RWA and SGA be entitled to obtain indemnification from their insurer(s) in excess of the total Claim amount.
 - (iv) In any Claim that is subject to litigation and/or adjudication, RWA and SGA will first tender the Claim to their insurer(s) for a defense. If the Claim is the sole liability of one party, then the liable party shall be solely responsible for all defense costs not paid by or in excess of its insurance coverage. In cases of joint and several liability, RWA and SGA shall each pay 50% of any defense costs not paid by or in excess of their respective insurance coverage.
- (d) If RWA's worker's compensation insurance does not fully cover all liability arising from covered employee or volunteer injuries within the scope of the Worker's Compensation and Insurance Act, then any excess amount of such liability shall be allocated either solely to RWA or SGA, or jointly to RWA and SGA, according to whether the Employee was acting for RWA or SGA or both at the time that the compensable injury occurred.

8. Compliance With Laws. RWA and SGA each shall give all notices required by law and comply with all laws, ordinances, rules and regulations pertaining to the conduct of their respective businesses. RWA shall be responsible for all violations of the law in connection with the acts of RWA, and SGA shall be responsible for all violations of the law in connection with the acts of SGA.

9. Indemnification. To the fullest extent permitted by law, RWA and SGA shall indemnify and hold harmless and defend each other, their directors, officers, employees, agents and/or authorized volunteers from and against all liabilities, claims, demands, losses, damages, and costs, including reasonable attorney's fees and litigation costs of all

persons in any way arising out of the decisions of the respective entities' Boards of Directors and from the performance (or actual or alleged non-performance) of RWA or SGA's duties under this Agreement, for damages to persons or property due to RWA or SGA's negligent or willful acts, errors or omissions committed. RWA and SGA shall not tender such claims to the other entity nor to its directors, officers, employees, agents and/or authorized volunteers, for defense or indemnity, except that RWA and SGA each shall defend the other and pay and satisfy any judgment, award or decree that may be rendered against the other, if any, or its directors, officers, employees, agents or authorized volunteers, in any suits, actions, or other legal or administrative proceedings, in accordance with the provisions of paragraph 7 of this Agreement.

10. 2000 Cost Share Agreement Superseded. This Agreement, as from time to time modified and amended, replaces and supersedes the 2000 Cost Share Agreement.

11. Employment Agreements Not Modified. This Agreement shall not be construed to modify or amend any employment agreement between an Employee and RWA or SGA, including the March 5, 2001 *SMWA-SNAGMA Employment Agreement with Executive Director*.

12. Entire Agreement. This writing constitutes the sole, entire, integrated and exclusive agreement between RWA and SGA regarding administration and management services, and any other contracts, agreements, terms, understandings, promises or representations not expressly set forth or referenced in this writing are null and void and of no force and effect.

13. Notices. Any notice to be given pursuant to this Agreement shall be sufficiently served if delivered personally to the Chair of the RWA or the Chair of the SGA Board of Directors, as appropriate, or if deposited in the United States Mail, regular pre-paid mail, addressed to RWA or SGA offices.

14. Successors and Assigns. This Agreement shall bind, and inure to the benefit of, the successors, assigns, heirs and legal representatives of the parties hereto.

15. Amendments. This Agreement may be amended only by a subsequent writing, approved and signed by all parties. The RWA and SGA Boards of Directors must approve any amendment to this Agreement at a public meeting. Individual RWA and SGA Board members do not have authority, express or implied, to amend, modify, waive or in any way alter this Agreement of the terms and conditions hereof.

16. Waiver. The waiver at any time by either party of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

17. Construction and Interpretation. The parties agree and acknowledge that this Agreement has been arrived at through negotiation, and that each party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule

of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

REGIONAL WATER AUTHORITY

By: _____
Chair, Board of Directors

Date: _____

SACRAMENTO GROUNDWATER AUTHORITY

By: _____
Chair, Board of Directors

Date: _____