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ACTION SHEET
PUBLIC UTILITES COMMITTEE MEETING OF 12/2/15

ISSUE NO. 11

Request for approval of Amendment No. 1 to the Joint Powers Agreement (JPA) between the City of Santa Fe and Santa Fe County for the Buckman Direct Diversion Project dated March 5, 2005 to allow for an alternate citizen member, to remove certain conditions related to the citizen member. (Nancy Long)

Buckman Direct Diversion Board – 11/5/15
 Public Utilities Committee – 12/2/15
 Board of County Commissioners
 City Council – 12/9/15

PUBLIC UTILITES COMMITTEE ACTION: Approved to forward to 12/9/15 City Council.

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE:	FOR	AGAINST	ABSTAIN
COUNCILOR RIVERA, CHAIR	X		
COUNCILOR MAESTAS	X		
COUNCILOR BUSHEE	X		
COUNCILOR DIMAS	Excused		
COUNCILOR IVES	X		



Buckman Direct Diversion

A joint regional project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply.

Memorandum

Date: For December 2, 2015 Public Utilities Meeting
To: City of Santa Fe; Public Utilities Committee
From: Nancy R. Long, BDDDB Attorney *NRL*
Subject: **Amendment to the Joint Powers Agreement creating the Buckman Direct Diversion Board**

ITEM AND ISSUE:

Consideration of amendment to the Joint Powers Agreement (“JPA”) to allow for an alternate citizen member and removing criteria for appointment of the citizen member upon expiration of their term.

BACKGROUND AND SUMMARY:

The JPA establishing the BDDDB, provides that a citizen member to the Board shall be appointed by a majority vote of the four other members for a two year term. The citizen member may be re-appointed without limit. That term extends for an additional sixty (60) days after expiration if a re-appointment or new appointment has not been made and if no appointment has been made, the Chief Judge of the First Judicial District appoints the citizen member. The BDDDB directed the preparation of an amendment to the JPA to allow for the appointment of an alternate citizen member and to remove the provisions that the Chief District Judge of the First Judicial District appoint a successor citizen member should the Board fail to make the appointment sixty (60) days following the expiration of the citizen member’s term. The BDD has recommended that the City and County approve the amendment to the JPA.

RECOMMENDATION:

It is recommended that the PUC recommend approval of Amendment Number One to the JPA to the City Council.





Buckman Direct Diversion

A joint regional project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply.

Memorandum

Date: For November 5, 2015 meeting
To: Buckman Direct Diversion Board
From: Nancy R. Long
Subject: Amendment to the Joint Powers Agreement creating the Buckman Direct Diversion Board

ITEM AND ISSUE:

Consideration of amendment to the Joint Powers Agreement (“JPA”) to allow for an alternate citizen member and removing criteria for appointment of the citizen member upon expiration of their term.

BACKGROUND AND SUMMARY:

The JPA establishing the BDDDB, provides that a citizen member to the Board shall be appointed by a majority vote of the four other members for a two year term. The citizen member may be re-appointed without limit. That term extends for an additional sixty (60) days after expiration if a re-appointment or new appointment has not been made and if no appointment has been made, the Chief Judge of the First Judicial District appoints the citizen member. At its September Board meeting, the BDDDB directed the preparation of an amendment to the JPA to allow for the appointment of an alternate citizen member and to remove the provisions that the Chief District Judge of the First Judicial District appoint a successor citizen member should the Board fail to make the appointment sixty (60) days following the expiration of the citizen member’s term.

RECOMMENDATION:

It is recommended that the Board request approval of Amendment Number One to the JPA to the City of Santa Fe and Santa Fe County.



**AMENDMENT NO. 1
TO THE JOINT POWERS AGREEMENT BETWEEN
THE CITY OF SANTA FE AND SANTA FE COUNTY
GOVERNING THE BUCKMAN DIRECT DIVERSION PROJECT**

THIS AMENDMENT NO. 1 is made and entered by and between the City of Santa Fe ("City") and Santa Fe County ("County"), effective as of the date it is approved by the New Mexico Department of Finance and Administration.

RECITALS

WHEREAS, the City and County entered into a Joint Powers Agreement dated March 5, 2005 ("JPA"), to provide for the establishment and management of the Buckman Direct Diversion Board, "BDDDB;"

WHEREAS, the City and County agree that the JPA should be amended to provide for an alternate citizen member of the BDDDB who will serve on the BDDDB in the absence of the citizen member; and

WHEREAS, the City and County agree that the JPA should also be amended to remove the provision that the Chief Judge of the First Judicial District appoint the citizen member upon sixty (60) days following the expiration of the citizen member's term.

NOW THEREFORE, it is agreed by the City and County that the JPA be amended as follows:

1. Section 5, **Appointment of BDD Board Members and Chairperson**, is amended by the deletion of the third full paragraph in its entirety and replacement with the following:

One citizen member and one alternate citizen member shall be appointed by a majority vote of the four other members each for a two-year term and each who may be re-appointed without limit. Prior to the end of any term, the citizen member, or alternate citizen member, may only be removed by unanimous action of the four other members. In the event that the citizen member's term, or alternate citizen member's term, expires but a citizen member, or alternate citizen member, has not been appointed for the following term, the citizen member, and/or alternate citizen member, shall continue to serve as a member or alternate member of the BDD Board until a replacement has been appointed by the Board.

2. All other provisions of the JPA not specifically amended by this Amendment Number 1 shall remain in full force and effect.

Section 5 is further amended by the insertion of the word "unexcused" in the first sentence of the fourth paragraph between the words "consecutive" and "absences" (line 33) so that the sentence with the addition noted in bold reads as follows:

"Upon expiration of a term of office or on account of death, illness, resignation, or three consecutive **unexcused** absences from duly called meetings, the entity that appointed the director shall thereupon appoint a director to the new term or to complete the term vacated."

2. All other provisions of the JPA not specifically amended by this Amendment Number 1 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands and seal this day and year set forth below.

CITY OF SANTA FE:

ATTEST:

JAVIER GONZALES, MAYOR

GERALDINE SALAZAR, COUNTY CLERK

ATTEST:

APPROVED AS TO FORM:

YOLANDA Y. VIGIL, CITY CLERK

GREG SHAFFER, COUNTY ATTORNEY

APPROVED AS TO FORM:

This AMENDMENT HAS BEEN APPROVED BY:



KELLEY BRENNAN, CITY ATTORNEY

State of New Mexico
Department of Finance Administration

SANTA FE COUNTY:

By: _____

ROBERT ANAYA, CHAIR, BOARD OF COUNTY COMMISSIONERS

Date: _____

BDB Approved 11/5/2016