

COUNCIL DOCKET OF _____

Supplemental Adoption Consent Unanimous Consent Rules Committee Consultant Review

R -

O -

Integrated Regional Water Management Planning

Reviewed Initiated By NR&C On 1/28/09 Item No. 5a

RECOMMENDATION TO:

Move the staff recommendation forward and to require this item to come back to the NR&C Committee with a list of projects to be included for funding.

VOTED YEA: Frye, DeMaio, Lightner, Emerald

VOTED NAY:

NOT PRESENT:

CITY CLERK: Please reference the following reports on the City Council Docket:

REPORT TO THE CITY COUNCIL NO.

INDEPENDENT BUDGET ANALYST NO.

COUNCIL COMMITTEE CONSULTANT ANALYSIS NO.

OTHER:

Water Department's January 08, 2009, Executive Summary Sheet

COUNCIL COMMITTEE CONSULTANT _____

000387

EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE ISSUED:	January 08, 2009	REPORT NO: N/A
ATTENTION:	Natural Resources and Culture Committee, Agenda of January 28, 2009	
ORIGINATING DEPARTMENT:	Water Department	
SUBJECT:	Integrated Regional Water Management Planning	
COUNCIL DISTRICT(S):	All	
STAFF CONTACT:	Marsi A. Steirer (619) 533-4112 Cathleen C. Pieroni (619) 533-6612	

REQUESTED ACTION:

City Council is requested to approve a Memorandum of Understanding (MOU) with the San Diego County Water Authority (Water Authority) and County of San Diego (County) for implementation of Integrated Regional Water Management (IRWM) Program activities and authorize related expenditures not to exceed \$300,000.

STAFF RECOMMENDATION:

- Authorize the Mayor or his designee to execute an MOU with the Water Authority and the County to refresh IRWM Planning efforts in order to pursue additional State Proposition 84 and 1E grant funding.
- Authorize the City expenditure in an amount not-to-exceed \$300,000 from the Water Department Fund 41500, Organization Number 861 for contributions towards consulting services retained by the Water Authority.

EXECUTIVE SUMMARY:

Proposition 50 was approved by the voters in 2002 and provided approximately \$390 million for IRWM Planning statewide. Identified as a key initiative in the California Department of Water Resources' (DWR) 2005 Water Plan, IRWM Planning is intended to offer an integrated, balanced and consensus approach to ensuring the long-term viability of water supplies, water quality and natural resources throughout the State.

Per the requirement of Proposition 50 IRWM Program guidelines, three entities (two of which must have statutory control of water supplies) formed a Regional Water Management Group (RWMG) for the San Diego region in 2005: the City, the County Water Authority and the County of San Diego. Per the terms of the 2005 MOU, each of these organizations contributed \$300,000 and staff resources to prepare the region's first IRWM Plan and submitted the region's application for grant funding in 2007. The Water Authority serves as lead agency among the three and secured the \$900,000 consultant contract which has since been exhausted.

In July 2008, the region was awarded the maximum \$25 million of Proposition 50, Chapter 8 grant funds to help finance 19 critical projects in the region. Of the \$25 million, \$4,550,515 will directly benefit Water Department conservation and recycling programs and \$257,732 will benefit a Storm Water Department project. Several other projects indirectly benefit the City such as Reservoir Watershed property acquisitions at San Vicente and El Capitan. The Water Authority anticipates signing an implementation agreement with the California Department of Water Resources once the current State budget freeze passes that will begin the implementation

000388

phase of the IRWM projects. Resolution Number R-300517 adopted by Council on June 13, 2005 authorizes the Water Department Director to secure IRWM Program Funding related to Proposition 50, including executing documents necessary for receipt, expenditure, and/or distribution of funds awarded as a result of participating in the Program.

Proposition 84 was approved by the voters in 2006 and provides an additional \$100 million for IRWM Planning. Additionally, California voters passed Proposition 1E in 2006 which provides \$300 million statewide for flood management and storm water projects identified in an IRWM Plan. The City and other RWMG members are interested in renewing their leadership role and updating the region's 2007 IRWM Plan to align with Propositions 84 and 1E funding guidelines; solicit and select projects; and, submit a grant application(s) to DWR. A new MOU is required to address this new effort. Each of the three RWMG partners is committed to providing an additional \$300,000 to accomplish these tasks for a total of \$900,000 and staff resources.

EQUAL OPPORTUNITY CONTRACTING

The consultant agreement is subject to the Water Authority's Equal Opportunity Contracting requirements.

FISCAL CONSIDERATIONS:

Funding for the \$300,000 is available from the Water Department Fund 41500, Organization Number 861.

PREVIOUS COUNCIL/COMMITTEE ACTION:

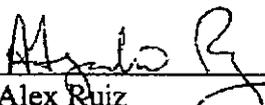
On June 13, 2005, the City Council adopted Resolution R-300517 authorizing the City Manager to execute the initial MOU and authorizing the expenditure of \$100,000 to cover the City's equal share of the funding to implement the initial MOU. On June 26, 2007, City Council adopted Resolution R-302766 authorizing the Mayor to execute Amendment No. 1 to the MOU, and authorizing the expenditure of \$200,000 to cover the City's equal share of the funding to implement the Amendment. On December 18, 2007, the City Council authorized the Mayor to adopt the 2007 San Diego Regional Water Management Plan with Resolution R-303237.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

As part of the update to San Diego's IRWM Plan for Proposition 84 funding, City staff will participate in outreach sessions throughout the greater San Diego region. For more information, see: www.sdirwmp.org.

KEY STAKEHOLDERS:

City of San Diego citizens, Water Authority member agencies and a Regional Advisory Committee (RAC) consisting of 27 community members from diverse water supply, water quality and watershed groups from the greater San Diego area. The RAC meets bimonthly at the Water Authority's headquarters; meetings are posted and open to the public.

 1/20/09

Alex Ruiz
Assistant Water Department Director

 1-20-09

J. M. Barrett
Director of Public Utilities

000389

106
03/10**REQUEST FOR COUNCIL ACTION**
CITY OF SAN DIEGOCERTIFICATE NUMBER
(FOR AUDITOR'S USE ONLY)
AC2900578TO:
CITY COUNCILFROM (ORIGINATING DEPARTMENT):
Water DepartmentDATE:
12/12/2008

SUBJECT: Integrated Regional Water Management Planning

PRIMARY CONTACT (NAME, PHONE):
Cathleen Pieroni, 619-533-6612SECONDARY CONTACT (NAME, PHONE):
Marsi Steirer, 619-533-4112

COMPLETE FOR ACCOUNTING PURPOSES

FUND		41500				
DEPT.		760				
ORGANIZATION		861				
OBJECT ACCOUNT		4222				
JOB ORDER		087110				
C.I.P. NUMBER						
AMOUNT	\$0.00	\$300,000.00	\$0.00	0.00	0.00	0.00

FUND						
DEPT.						
ORGANIZATION						
OBJECT ACCOUNT						
JOB ORDER						
C.I.P. NUMBER						
AMOUNT	0.00	0.00	0.00	0.00	0.00	0.00

COST SUMMARY (IF APPLICABLE): Expenditure not to exceed \$300,000.

ROUTING AND APPROVALS

CONTRIBUTORS/REVIEWERS:	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
Grants Administration	ORIG DEPT.	Bruce, Janet	1/23/2009
Equal Opportunity Contracting	CFO		
Financial Management	DEPUTY CHIEF	Barrett, Jim	2/18/2009
Comptroller	COO		
Liaison Office	CITY ATTORNEY	Palmucci, Ray	2/23/2009
	COUNCIL PRESIDENTS OFFICE	Halsey, Keely	2/25/2009

PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

Authorize the Mayor, or his designee, to execute an MOU between the City of San Diego, the County Water Authority and the County of San Diego for a term not to exceed 5 years to implement the Integrated Regional Water Management Program (Program) and pursue State Proposition 84 and 1E grant funding; and

Authorize the Mayor, or his designee, to execute amendments to the Memorandum of Understanding as necessary to administer the Program; and

Authorize the Mayor, or his designee, to take all necessary actions to implement and secure Program grant

000390

funding, including conducting negotiations and executing documents necessary for receipt, expenditure, and/or distribution of funds awarded as a result of participating in this Program; and

Authorize the expenditure of \$300,000 from Water Fund 41500, Organization 861 provided that the City Comptroller first furnishes a certificate certifying that funds are, or will be, on deposit with the City Treasurer; and

Authorizing the City Comptroller, upon advice from the administering department, to transfer excess funds, if any to the appropriate reserves.

STAFF RECOMMENDATIONS:

Staff recommends adoption of the resolution.

SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)

COUNCIL DISTRICT(S): All

COMMUNITY AREA(S): All

ENVIRONMENTAL IMPACT: This activity is not a "project" and is therefore not subject to CEQA per CEQA Guidelines Section 15060(c)(2). This determination is based on Section 15004 of the Guidelines which provides direction to lead agencies on the appropriate timing for environmental review.

CITY CLERK INSTRUCTIONS:

000391

**COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO**

DATE: 12/12/2008

ORIGINATING DEPARTMENT: Water Department

SUBJECT: Integrated Regional Water Management Planning

COUNCIL DISTRICT(S): All

CONTACT/PHONE NUMBER: Cathleen Pieroni/619-533-6612

REQUESTED ACTION:

Staff requests approval allowing the City of San Diego to enter into a Memorandum of Understanding (MOU) with the San Diego County Water Authority (Water Authority) and the County of San Diego (County) to implement Integrated Regional Water Management (IRWM) Plan activities; and, authorizing the related expenditure of up to \$300,000 for a term not to exceed 5 years.

STAFF RECOMMENDATION:

Staff recommends adoption of the resolution.

EXECUTIVE SUMMARY:

Proposition 50 was approved by the voters in 2002 and provided approximately \$390 million for IRWM Planning statewide. Identified as a key initiative in the California Department of Water Resources' (DWR) 2005 Water Plan, IRWM Planning is intended to offer an integrated, balanced and consensus approach to ensuring the long-term viability of water supplies, water quality and natural resources throughout the State.

Per the requirement of Proposition 50 IRWM Program guidelines, three entities (two of which must have statutory control of water supplies) formed a Regional Water Management Group (RWMG) for the San Diego region in 2005: the City, the County Water Authority and the County of San Diego. Per the terms of the 2005 MOU, each of these organizations provided \$300,000 plus staff resources to prepare the region's first IRWM Plan and submitted the region's application for grant funding in 2007. The Water Authority serves as lead agency among the three and secured the \$900,000 consultant contract which has since been exhausted.

In July 2008, the region was awarded the maximum \$25 million of Proposition 50, Chapter 8 grant funds to help fund 19 critical projects in the region. Of the \$25 million, \$4,550,515 will directly benefit Water Department conservation and water recycling programs and \$257,732 will benefit a Storm Water Department project. Several other projects also benefit the City such as Reservoir Watershed property acquisitions at San Vicente and El Capitan. The Water Authority anticipates signing an implementation agreement with the California Department of Water Resources once the current State budget freeze passes. The City will, in turn, enter into an agreement with the Water Authority to receive the grant funding for City managed projects. Resolution Number R-300517 adopted by Council on June 13, 2005 authorizes the Water Department Director to secure IRWM Program Funding related to Proposition 50, including executing documents necessary for receipt, expenditure, and/or distribution of funds awarded as a result of participating in the Program.

000392

Proposition 84 was approved by the voters in 2006 and provides an additional \$1 billion for IRWM Planning statewide. Additionally, California voters passed Proposition 1E in 2006 which provides \$300 million statewide for flood management and storm water projects identified in an IRWM Plan. *The City and other RWMG members are interested in renewing their leadership role and updating the region's 2007 IRWM Plan to align with Propositions 84 and 1E funding guidelines; solicit and select projects; and, submit a grant application(s) to DWR. A new MOU is required to address this new effort. Each of the three RWMG partners is committed to providing an additional \$300,000 to accomplish these tasks for a total of \$900,000 and staff resources.*

EQUAL OPPORTUNITY CONTRACTING

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517)

FISCAL CONSIDERATIONS:

Funding for the \$300,000 is available from the Water Department Fund 41500, Organization Number 861.

PREVIOUS COUNCIL/COMMITTEE ACTION:

On June 13, 2005, the City Council adopted Resolution R-300517 authorizing the City Manager to execute the initial MOU and authorizing the expenditure of \$100,000 to cover the City's equal share of the funding to implement the initial MOU. On June 26, 2007, City Council adopted Resolution R-302766 authorizing the Mayor to execute Amendment No. 1 to the MOU, and authorizing the expenditure of \$200,000 to cover the City's equal share of the funding to implement the Amendment. On December 18, 2007, the City Council authorized the Mayor to adopt the 2007 San Diego Regional Water Management Plan with Resolution R-303237. On January 28, 2009, this item was presented to the Natural Resources & Culture Committee. By a vote of 4-0, the NR&C Committee approved the staff recommendation and supported moving the item forward for Council deliberation with the understanding that this item would come back to the NR&C Committee prior to the submittal of the grant application with the list of recommended projects identified for funding.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The RWMG created the Regional Advisory Committee (RAC) to provide for community participation in the IRWM Planning process. The RAC consists of 27 community members from diverse water supply, water quality and watershed groups from the greater San Diego area. The RAC bimonthly meetings are posted and open to the public. On January 12, 2009 this agreement was reviewed and supported by the Independent Rates Oversight Committee (IROC). As part of the update to San Diego's IRWM Plan for Proposition 84 funding, City staff will participate in outreach sessions throughout the greater San Diego region. For more information, see: www.sdirwmp.org.

KEY STAKEHOLDERS:

City of San Diego residents, Water Authority member agencies and the Regional Advisory Committee.

000393

Bruce, Janet
Originating Department

Barrett, Jim
Deputy Chief/Chief Operating Officer

000395

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE
ORIGINATING

AC 2900578
DEPT. NO.: 760

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/	EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT											

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$ 300,000.00

Vendor: ~~Brown and Caldwell~~ San Diego County Water Authority (CP)

Purpose: To authorize the expenditure of \$300,000.00 for Integrated Regional Water Management Planning.

Date: February 9, 2009 By: Norman Reyes

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/	EQUIP	FACILITY	AMOUNT
01	0	41500	760	861	4222	087110					300,000.00
TOTAL											\$300,000.00

FUND OVERRIDE

AC 2900578

AC-361 (REV 2-92)

000397

RESOLUTION NUMBER R- _____

DATE OF FINAL PASSAGE _____

A RESOLUTION AUTHORIZING EXECUTION OF
MEMORANDUM OF UNDERSTANDING; EXPENDITURE OF
FUNDS; AND TAKING RELATED ACTIONS.

WHEREAS, in November of 2002, California voters passed Proposition 50, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act [Prop 50], which, among other things, authorized the California Legislature to appropriate funding for competitive grants for Integrated Regional Water Management [IRWM] projects; and

WHEREAS, the IRWM Grant Program established in accordance with Prop 50 [Program] encourages integrated regional strategies for management of water resources and provides competitive funding for projects that protect from drought, protect and improve water quality, and improve local water security by reducing dependence on imported water; and

WHEREAS, on June 13, 2005, by Resolution R-300517, the City of San Diego, the County of San Diego and the San Diego County Water Authority entered into a Memorandum of Understanding [MOU] to participate in the Program, to further Program guidelines and administer Program grant applications and awards; and NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the Mayor or his designee is hereby authorized to execute a MOU, on file in the Office of the City Clerk as Document No. RR- _____, between the City of San Diego, the County of San Diego, and the San Diego County Water Authority, for a term not to exceed 5 years, to implement the Program and pursue State Propositions 84 and 1E grant funding; and

000398

2. That the Mayor or his designee is authorized to execute amendments to the MOU as necessary to administer the Program; and

3. That the Mayor or his designee is authorized to take all necessary actions to implement and secure Program grant funding, including conducting negotiations and executing documents necessary for receipt, expenditure, and/or distribution of funds awarded as a result of participating in this Program; and

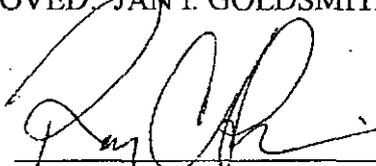
4. That the expenditure of an amount not to exceed \$300,000.00 from Water Fund 41500, Organization 861, is authorized solely and exclusively for the purpose of pursuing additional State Propositions 84 and 1E grant funding pursuant to the MOU, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer; and

5. That the City Auditor and Comptroller is authorized, upon advice from the administering department, to transfer excess budgeted funds, if any, to appropriate reserves; and

6. That this activity is not a project and is therefore not subject to the California Environmental Quality Act [CEQA] per CEQA Guidelines Section 15060 (c)(2) and that individual projects that receive grant funding will be subject to further CEQA review and approval.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Raymond C. Palmucci
Deputy City Attorney

RCP:sc
02/09/2009
Or.Dept: Water
R-2009-816

000399

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

000401

**MEMORANDUM OF UNDERSTANDING
BETWEEN CITY OF SAN DIEGO
COUNTY OF SAN DIEGO, and SAN DIEGO COUNTY WATER AUTHORITY
for the
INTEGRATED REGIONAL WATER MANAGEMENT PLAN AND GRANT PROGRAM
For 2009-2013**

This Memorandum of Understanding (MOU) between the San Diego County Water Authority (Water Authority); the City of San Diego, a municipal agency (City); and the County of San Diego, a political subdivision of the State of California (County) sets forth the respective roles of the Water Authority, City and County in regard to the Integrated Regional Water Management (IRWM) Plan and Grant Program. Water Authority, City and County are sometimes referred to in this MOU collectively as the "Parties" and individually as "Party."

This MOU replaces the Memorandum of Understanding (June 13, 2005), as amended, between City of San Diego, County of San Diego, and San Diego County Water Authority for Fiscal Years 2005-2009 for the IRWM Grant Program.

RECITALS:

1. The California Legislature enacted SBX2 1 (Perata, Chapter 1 Statutes of 2008), the Integrated Regional Water Management Planning Act, which repealed and re-enacted Part 2.2 of Division 6 of the Water Code relating to integrated regional water management plans. SBX2 1 provides that a regional water management group may prepare and adopt an integrated regional water management (IRWM) plan.
2. In November 2002, Proposition 50, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act (Prop 50), authorized the Legislature to appropriate funding for competitive grants for IRWM projects.
3. In November 2006, Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act (Prop 84), authorized the Legislature to appropriate funding for competitive grants for IRWM projects.
4. The intent of the IRWM Grant Program (Program) established in accordance with Prop 50 and SBX2 1 is to encourage integrated regional strategies for management of water resources and to provide funding, through competitive grants, for projects that protect communities from drought, protect and improve water quality, promote environmental stewardship, and improve local water security by reducing dependence on imported water.
5. To qualify as a regional water management group (RWMG) and comply with the Program Guidelines (Guidelines) established under Prop 50 and SBX2 1, at least three agencies must participate in the group; two of the agencies must have statutory authority over water management that may include water supply, water quality, flood control, or stormwater management.

6. In 2005, the Parties established an RWMG that consists of the Water Authority and City, both of which have statutory authority over water management, and County, which has statutory authority over water quality and flood control in the unincorporated area.
7. The Parties understand that only through a collaborative effort with the many stakeholders involved in water management planning can the IRWM Plan process be successful in the San Diego region.
8. As part of the public outreach and stakeholder involvement effort, the Parties established the Regional Advisory Committee (RAC), which comprises up to 30 representatives appointed by the Parties from the water management areas of water supply, water quality and natural resources/watersheds management; representatives of businesses, academia and tribes; and other interested members of the public. The purpose of the RAC is to make recommendations to the Parties on key issues related to IRWM planning and grant applications.
9. The Parties, acting with positive recommendations from the RAC, completed the 2007 San Diego IRWM Plan and submitted an implementation grant application (Application) under the second cycle of the Prop 50 IRWM Program. The Parties subsequently were awarded a \$25 million implementation grant application (Application) from the Department of Water Resources (DWR).
10. Proposition 84 allocates an additional \$91 million dollars in grant funding for projects developed under the IRWM Plan for the San Diego Funding Area.
11. Proposition 84 and Proposition 1E, the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Prop 1E), which passed in 2006, include a combined \$575 million that will be available on a competitive basis statewide for regional flood management and stormwater projects that are consistent with an adopted IRWM Plan. DWR plans to have a single application for Prop 84 IRWM and flood management and Prop 1E stormwater-flood management grant funds.
12. *The original MOU between the Parties did not provide funding to implement or update the IRWM Plan, administer the Prop 50 grant contract, or apply for Prop 84 and Prop 1E funding. This MOU consists of five major components: general grant obligations, 2007 San Diego IRWM Plan update, Prop 50 grant contract administration, the role of the RAC, and funding.*

Now, therefore, in consideration of the above incorporated recitals and mutual obligations of the Parties herein expressed, the Parties agree as follows:

1. General grant obligations

- a. The Parties are equal partners in the development and submission of State grant applications, including the associated region acceptance process. All Parties shall have necessary reviews and approvals completed by their respective staff before submittal of grant applications.

- b. The Parties shall provide timely input on grant application reviews and approvals according to the schedule upon which they have mutually agreed. The grant applications shall be developed in accordance with the Guidelines and schedule established by DWR.
- c. Water Authority shall submit the grant applications to the State on behalf of the Parties.
- d. To expedite the grant application process, Water Authority shall provide initial funding for a consultant to develop the applications. The cost of the consultant and applications shall be shared by the parties consistent with Section 5 of this MOU.
- e. Water Authority shall be responsible for developing project lists and managing funding for its member agencies (except City).
- f. City shall be responsible for developing project lists and managing funding for projects that fall within City's jurisdictional boundaries, are located on City-owned property, or are projects in which City is involved as a partner.
- g. County shall be responsible for developing project lists and managing funding for regional non-governmental organizations, stormwater and watershed projects or projects not otherwise explicitly within the responsibilities of the Water Authority or City.
- h. Procurement of all work for the projects shall comply with the terms and conditions of the State Grant and all other applicable laws.

2. San Diego IRWM Plan update

- a. The Parties are equal partners in the update of the IRWM Plan (Plan). Water Authority shall contract with a consultant to update the Plan in compliance with the Guidelines and schedule established by DWR, and submit the updated Plan to the State.
- b. The update of the Plan shall be contingent upon receipt of additional funding.

3. Prop 50 grant contract administration

Definition: A Local Project Sponsor is a proponent of an individual project that will be funded as part of an IRWM Program grant from State. A local project sponsor may be Water Authority, County, City, a Water Authority member agency, a municipality or a non-governmental organization.

- a. The Water Authority shall have overall responsibility for administering the Prop 50 Program grants in the San Diego region unless other mutually agreeable arrangements are made with the granting agencies or among the Parties. Administrative tasks include contracting with the State and Parties, coordinating and submitting reports, and responding to audit requests by the grant agency.
- b. Each Party shall be responsible for managing grant projects as set forth in this section and for requiring adherence to the contractual requirements of the funding agency. A matrix of projects, Local Project Sponsors, and their administering Party is attached.
- c. A Party whose project is awarded Program funding, or who is managing the project of a Local Project Sponsor that has been awarded Program funding, shall invoice the Water Authority, which shall in turn invoice the State. The Water Authority shall, within 60

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- days of receipt of funds from the State, disburse the funds to the Local Project Sponsor and provide notice of disbursement to Managing Party.
- d. The Parties agree to jointly hire a consultant to assist in administration of the Prop 50 Program grant received by the Region. These tasks include collecting necessary data, preparing required quarterly reports consistent with DWR guidelines and verifying invoices. The Parties shall participate in the consultant selection process and in development of the scope of work. All Parties shall be signatories to the consultant contract; the Water Authority shall be the lead Party for contract administration.
 - e. The Parties shall pay for the consultant to assist in administration of the Prop 50 Program grants with a fund that comprises three percent of each individual project grant. To the extent that consultant costs exceed the amount in this fund, and the Parties mutually agree to the additional cost, they shall equally share these costs in accordance with Section 5a.
 - f. All public works construction using Prop 50 Funds shall comply with all applicable laws for a "public work," including a Labor Compliance Program.
 - g. If the State funds the Program at a level lower than the requested dollar amount and does not provide direction on which projects to fund, the Parties, in consultation with the RAC, shall reevaluate all projects and fund as determined by that reevaluation of projects and their integration into regional priorities and benefits.

4. Role of Regional Advisory Committee (RAC)

The RAC shall be considered the project advisory committee. The Parties are committed to a cooperative relationship with the RAC and will incorporate the RAC's consensus *recommendations in draft documents prepared for presentations to the Parties' governing bodies.* The Parties' governing bodies will give primary consideration to the recommendations of the RAC as part of any decision related to the following:

- a. Adoption of the updated IRWM Plan for the San Diego region.
- b. Development of the San Diego planning region for DWR's region approval process, which precedes grant applications under the combined Prop 84 and Prop 1E grant program.
- c. Criteria for prioritizing projects for funding under the Prop 84 and Prop 1E grant programs.
- d. Approval and submission of grant applications.
- e. Transition responsibility for implementation of the IRWM Plan to a new institutional structure.

5. Funding

- a. Funding under this agreement shall not exceed \$900,000; each Party shall provide an equal share in an amount not to exceed \$300,000. If costs to implement the MOU exceed \$900,000, the Parties shall contribute equally to a mutually agreed upon increase, the terms of which shall be set forth in an amendment to this MOU.
- b. In-kind services provided by the Parties shall be considered in excess of the above funding amounts and are not reimbursable. The Parties' staff shall separately document time spent on in-kind services for IRWM planning, administration and grant applications.
- c. The costs of the MOU shall not include expenditures to administer the Prop 50 grant Program.
- d. Water Authority shall invoice City and County on a quarterly basis along with supporting documentation of expenses. City and County shall remit payment within 60 days of receipt of invoice.

6. Assignment

Parties shall not assign or transfer this MOU or any rights under or interest in this MOU without written consent of all other Parties, which may be withheld for any reason.

7. Defense and Indemnity

Water Authority, City, and County each agree to mutually indemnify, defend at its own expense, including attorneys' fees, and hold each other harmless from and against all claims, costs, penalties, causes of action, demands, losses and liability of any nature whatsoever, including but not limited to liability for bodily injury, sickness, disease or death, property damage (including loss of use) or violation of law, caused by or arising out of or related to any negligent act, error or omission, or willful misconduct of that party, its officers or employees, or any other agent acting pursuant to its control and performing under this Agreement.

Nothing in the foregoing shall be construed to require any Party to indemnify another for any claim arising from the sole negligence or willful act of the Party to be indemnified.

8. Document Review

Water Authority, City and County each shall make available for inspection to the other Parties, upon reasonable advance notice, all records, books and other documents relating to the Plan and the Program, unless privileged.

9. Term

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The term of this MOU shall begin on the date of execution by all Parties and expire on December 31, 2013. The Parties agree to continue participating in the planning, development and coordination of the Plan and Grants to the maximum extent possible for the duration of the agreement. However, the term is contingent upon funding by Water Authority, City and County. In the event that future budget appropriations are not approved by one or more of the Parties or by DWR, this MOU shall terminate at the beginning of the fiscal year for which such appropriations are not made. The Parties shall notify each other of this event. Also, if appropriations are different than anticipated, MOU and Program funding shall be adjusted based on available funding.

This MOU may be extended upon mutual written agreement of all Parties.

10. Notice

Any notice, payment, credit or instrument required or permitted to be given hereunder will be deemed received upon personal delivery or 24 hours after deposit in any United States mail depository, first class postage prepaid, and addressed to the Party for whom intended as follows:

If to the Water Authority:

San Diego County Water Authority
4677 Overland Avenue
San Diego, CA 92123
Attn: Mark Stadler

If to City:

City of San Diego Water Department
600 B Street, Suite 600
San Diego, CA 92101
Attn: Cathy Pieroni

If to County

County of San Diego
5201 Ruffin Road, Suite P
San Diego, CA 92123
Attn: Sheri McPherson

Any Party may change such address or contact by notice given to the other Parties as provided herein.

11. Amendments

The MOU may be amended as circumstances necessitate by written agreement executed by all Parties.

12. Severability

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The partial or total invalidity of one or more parts of this MOU will not affect the intent or validity of this MOU.

13. Governing Law

This MOU shall be deemed a contract under the laws of the State of California and for all purposes shall be interpreted in accordance with such laws. Any action brought shall be in San Diego County, California.

14. Obligations

Nothing in this agreement shall create additional obligations with respect to the Plan or Program.

15. Termination of MOU

This MOU may be terminated by any Party hereto for any reason 30 days after notice in writing to the other Parties.

16. Signatures

The individuals executing this MOU represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

IN WITNESS WHEREOF, the Parties have executed this MOU as of the date below.

San Diego County
Water Authority

City of San Diego

By: _____
Ken Weinberg
Director of Water Resources

By: _____
J.M. Barrett.
Director of Public Works

County of San Diego

By: _____
John L. Snyder, Director
Department of Public Works

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APPROVED AS TO FORM:

San Diego County
Water Authority

City of San Diego

By: _____
General Counsel
San Diego County Water Authority

By: _____
Raymond C. Palmucci
Deputy City Attorney

County of San Diego

By: _____
Senior Deputy County Counsel

Date: _____