

M E M O R A N D U M O F U N D E R S T A N D I N G

THIS MEMORANDUM OF UNDERSTANDING, hereinafter referred to as AGREEMENT, is made and entered into as of the date of the last Party signature set forth below between the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, hereinafter referred to as DISTRICT, and _____, hereinafter referred to as Local Project Sponsor ("LPS"). District and LPS are hereinafter referred to as "Parties" or, each individually, as "Party" for the following project _____ hereinafter "Project"):

W I T N E S S E T H

WHEREAS, in November 2002, the voters of California enacted the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, hereinafter referred to as Proposition 50, adding provisions to the California Water Code;

WHEREAS, Chapter 8 of Proposition 50, commencing with Water Code Section 79560, authorizes the Legislature to appropriate Five Hundred Million and 00/100 Dollars (\$500 million) for Integrated Regional Water Management (IRWM) projects (water resources related projects that address water supply, water quality, sanitation, and habitat/open space needs in a region);

WHEREAS, the intent of the IRWM concept is to encourage integrated regional strategies for the management of water resources and to provide funding through competitive grants for projects that protect communities from drought, improve water reliability, protect and improve water quality, and improve local water security by reducing dependence on imported water;

WHEREAS, the California Department of Water Resources (DWR) and the State Water Resources Control Board in November 2004 issued Integrated Regional Water Management Grant Program Guidelines, ("Guidelines") to establish the process and criteria that these agencies will use jointly to solicit applications, evaluate proposals, and award grants under the IRWM Grant Program;

WHEREAS, eligible grant recipients under the Guidelines are public agencies defined as a City, County, City and County, District, joint powers authority, State agency or Department, or other political subdivision of the State, and nonprofit organizations defined as any California corporation organized under Sections 501(c)(3), 501(c)(4), or 501(c)(5) of the Federal Internal Revenue Code. Other entities may be part of the regional water management group responsible for applying for the grant and may perform work funded by the grant;

WHEREAS, under the Guidelines, the IRWM Grant Program will consist of two separate solicitations: (1) planning grants and (2) implementation grants. Implementation grants must be submitted by a regional water management group or regional agency and must: (1) document a formally adopted IRWM Plan, hereinafter referred to as PLAN, (2) demonstrate consistency with Plan Standards (Water Code § 79562.5(b)), (3) describe specific implementation projects for which funding is being requested, (4) prioritize proposed projects listed in PLAN, and (5) identify matching funding.

As a regional agency, DISTRICT submitted the implementation grant application on behalf of the IRWM entities;

WHEREAS, the PLAN for the Greater Los Angeles County Region ("Region") was adopted on December 13, 2006 and will facilitate a regional approach to watershed management by establishing collaborative efforts across the watersheds within the Region.

WHEREAS, the allocation of implementation grant funds requires a two-step application process. Several entities within the Region, namely, the Cities of Downey and Los Angeles, Santa Monica Bay Restoration Commission, Watershed Conservation Authority, and West and Central Basin Municipal Water Districts, submitted step 1 implementation grant proposals on behalf of themselves and other local entities within their jurisdictions in July, 2005.

WHEREAS, on March 10, 2006, the State of California, Department of Water Resources ("DWR") and State Board invited certain entities to designate a single entity to submit a consolidated step 2 implementation grant application on their behalf, incorporating their projects into one consolidated grant application for the entire region. DISTRICT has been requested by these entities to submit the application for step 2 implementation grant funds on behalf of itself and other local entities for grant funds in the amount of \$25 million.

WHEREAS, the following local entities, solely, or jointly, have submitted 13 separate projects (the projects are identified in Exhibit G to the Grant Agreement between DWR and DISTRICT which Grant Agreement, including all Exhibits, is attached hereto and incorporated herein as Attachment A) to be included in the step 2 implementation grant proposal for the Region: The City of Los Angeles Department of Public Works Bureau of Sanitation, Cities of Calabasas and Westlake Village, Central and West Basin Municipal Water Districts, Las Virgenes Municipal Water District, Los Angeles County Sanitation Districts,, Los Angeles and San Gabriel Rivers Watershed Council, Mountains Recreation and Conservation Authority, National Park Service, and DISTRICT.

WHEREAS, for IRWM projects funded under the step 2 implementation grant that will be implemented with the participation of more than one entity, Parties agree that the LPS will be a single entity that is responsible for implementation of the Project and which has the authority to enter into this MOU. The LPS assumes all responsibilities and liabilities under this AGREEMENT (including the Grant Agreement responsibilities allocated to LPS under this AGREEMENT). The LPS will be the entity that invoices DISTRICT, submits required information, including reports, notices and notifications, to DISTRICT and provides any documentation and information requested or required under this AGREEMENT or the Grant Agreement by DISTRICT with respect to the implementation of the Project. In the event that the Project is implemented by more than one entity, the LPS shall ensure that it has entered into appropriate agreement(s) with each of the other entities to confirm the authority of LPS to enter into this AGREEMENT and take full responsibility for the implementation of the Project and to commit to the fulfillment of their respective obligations with respect to the Project. As to DISTRICT, LPS remains solely responsible for the Project.

WHEREAS, DWR will award an implementation grant of up to twenty five million and 00/100 Dollars to the Greater Los Angeles County Region.

WHEREAS, DWR, has indicated that it will enter into an agreement ("Grant Agreement") with DISTRICT, for the administration of the implementation grant funds with respect to the 13 projects, including LPS's Project.

WHEREAS, LPS desires that DISTRICT execute the Grant Agreement with DWR on its behalf so that it can receive and benefit from the Proposition 50 grant funds.

WHEREAS, the Grant Agreement requires that LPS be contractually required to comply with the requirements of the Grant Agreement for its Project and that if agreement with LPS is not secured by August 1, 2008, DWR may reduce the grant amount intended for a non-participating LPS.

WHEREAS, DISTRICT and LPS desire to enter into this AGREEMENT to clarify their respective responsibilities with respect to the grant from DWR and the Parties' responsibilities under the Grant Agreement; specifically, the Parties intend that DISTRICT's role will be to administer the grant funding and submit documentation required under the Grant Agreement to DWR on behalf of LPS and LPS will be responsible for all other activities required under the Grant Agreement related to its Project, including, but not limited to construction, monitoring, project management, operations and maintenance and legal compliance.

WHEREAS, LPS has agreed to allow DISTRICT to withhold 2.5% of the grant for the Project amount allocated by DWR as reimbursement to DISTRICT for its administrative, management and project oversight efforts with respect to the IRWM grant.

NOW, THEREFORE, DISTRICT and LPS hereby agree as follows:

Section (1) DISTRICT AGREES TO:

- (1) Provide staff to oversee grant administration, management of grant funds and project oversight as related to the grant.
- (2) Establish an independent account to manage the grant funds for the Project. . This will include routine update of the balance and activities of the account.
- (3) Receive from LPS and submit to DWR reports and information prepared and provided by LPS. as requested by DISTRICT and/or as required under the Grant Agreement.
- (4) Process grant reimbursement requests submitted by LPS including, submission of such requests to DWR and, only upon receipt of funds from DWR related to the invoices submitted, provide payment to LPS, less 2.5% of the invoiced amount paid for the Project for administrative, management of grant funds and project oversight by DISTRICT.

Section (2) LPS AGREES TO:

- (1) Retain sole and full responsibility for all aspects of its Project as identified in the Grant Agreement, including, but not limited to, planning, design, review and approval of plans, specifications, bid documents and construction documents, implementation, construction, management, project oversight, monitoring, inspections, operation and maintenance, submission of project reimbursable billing

requests, provision or reports, notifications and notices, compliance with all legal requirements related to the Project such as, lead agency responsibilities, compliance with California Environmental Quality Act ("CEQA") and the CEQA Guidelines and all other applicable local, state and federal statutes and regulations related to the Project ,for the lifetime of the Project. LPS shall keep informed of and take all measures necessary to ensure compliance with California Labor Code requirements, including, but not limited to, Section 1720, *et seq.* of the California Labor Code regarding public works.

- (2) Comply with all terms, provisions and commitments contained in the Grant Agreement applicable to LPS or to DISTRICT as Grantee or to representatives of Grantee under the Grant Agreement, whether or not herein specifically referenced, (with the exception of responsibilities herein which are solely responsibilities of DISTRICT) for the lifetime of the Project. The Parties agree that responsibilities of LPS, Grantee, representatives of Grantee or activities for which DISTRICT (as Grantee) and LPS may be listed as jointly responsible under the Grant Agreement, shall remain the sole responsibility of LPS, with the exception of activities herein listed as DISTRICT'S RESPONSIBILITIES.
- (3) Ensure that any and all permits, licenses and approvals required related to its Project are obtained in a timely manner and maintained in effect as legally required.
- (4) Allow DISTRICT to withhold 2.5% of the grant amount paid by DWR related to the Project for its grant administrative, management and project oversight efforts.
- (5) Submit not more than one reimbursement request per month to DISTRICT, executed by an authorized individual at LPS who certifies the accuracy of the information contained in the reimbursement request.
- (6) Prepare, provide and ensure accuracy of all reports, documentation, notifications, notices and information related to the Project as required under the Grant Agreement and and/or requested by DISTRICT to assist DISTRICT and to enable DISTRICT or LPS to provide information required under the Grant Agreement to DWR in a prompt and timely manner, in accordance with the provisions of the Grant Agreement.
- (7) Inform DISTRICT of any changes related to the Project as soon as possible, including but not limited to, the progress of construction and Project budget.
- (8) Provide regular and ongoing inspections of construction work in progress and be responsible to keep work under control. Additionally, authorize DISTRICT to inspect the Project, at DISTRICT's discretion and review the progress of the Project.
- (9) Accept all liabilities and hold DISTRICT legally and financially harmless if it is determined by any public agency, Parties, courts of law and/or other entities that the allocation and use of the grant and matching funds is in violation of any applicable statutes, regulations, ordinances, guidelines or requirements, including, but not limited to, grant requirements, and/or requirements governing contracting, and subcontracting.
- (10) Retain responsibility for persons or activities performing work related to the Project,

including, but not limited to employees, subcontractors, suppliers and providers of services.

- (11) Maintain responsibility for any and all disputes arising out of its contract work on the IRWM Program, including but not limited to payment disputes with representatives of LPS, contractors and subcontractors. DISTRICT will not mediate disputes between LPS and any other entity concerning responsibility for performance of work related to the Project.
- (12) Comply with all Basic Conditions and Conditions for Disbursement under the Grant Agreement.
- (13) Designate in writing a Project Manager with the full authority to act on behalf of LPS on any matter related to the Project and advise DISTRICT and DWR in writing of in the event of any change in Project Manager.

Section (3) TERMINATION OF AGREEMENT

- (1) This AGREEMENT shall remain in effect while the Grant Agreement, or any provision of the grant agreement remains in effect. DISTRICT may terminate this AGREEMENT upon termination of the Grant Agreement, for failure by DWR to provide adequate funding under Grant Agreement or for failure by LPS to comply with any provision of this AGREEMENT. LPS may terminate this AGREEMENT; however, in the event of termination by LPS, LPS shall remain solely responsible for any liability, costs or expenses related to its Project, including any request for repayment by DWR related to LPS's Project and/or any other costs, fees and/or penalties, such as costs related to allegations of default under Section 20 of the Grant Agreement, asserted against DISTRICT by DWR related to that Project. In no event shall DISTRICT be responsible for any liability, costs or expenses related to LPS's Project or for the performance of work on, or the operation or maintenance of the completed Project.

Section (4) GENERAL INDEMNIFICATION

- (1) LPS shall indemnify, defend and hold harmless DISTRICT, the County of Los Angeles, Special Districts for which the Board of Supervisors for the County of Los Angeles and DISTRICT acts as the governing body, elected and appointed officers, employees and agents from and against any and all liability, including, but not limited to defense costs, demands, claims, allegations of default or breach of the Grant Agreement or this AGREEMENT, actions, fees, costs and expenses (including attorney and expert witness fees) arising from or relating to acts or omissions of the LPS related to the Project and/or any actions or activities taken by DISTRICT on behalf of LPS under this AGREEMENT, including, but not limited to DISTRICT's actions or activities in administering the grant funding. As part of this indemnity, LPS agrees not to seek any funding from DISTRICT other than funds provided by DWR to DISTRICT which are for LPS's Project, regardless of the failure, for whatever, reason, by DWR to fund all or part of its grant commitment related to the Project, including any withholding of all or a portion of grant funds by DWR and/or any request for repayment of funds by DWR and/or DISTRICT as specified in the

Grant Agreement. Liability arising from the sole active negligence of DISTRICT is excluded under this section. This indemnity section shall remain in effect while the Grant Agreement, or any of its terms, is in effect and shall survive the termination, for any reason, of the Grant Agreement or this AGREEMENT and shall remain in effect during the lifetime of the Project.

- (2) LPS understands and agrees that it has complied and continues to comply with the requirements set forth in CEQA and the State CEQA Guidelines for its Project. LPS understands and agrees that it is ultimately and solely responsible, as the lead agency or on its behalf, for compliance with all applicable CEQA and NEPA requirements, including any mitigation measures required for the Project. The LPS hereby agrees to indemnify, defend and hold harmless DISTRICT, the County of Los Angeles, Special Districts for which the Board of Supervisors for County of Los Angeles and DISTRICT acts as the governing body, elected and appointed officers, employees and agents from and against any and all claims and/or actions related to the Project that may be asserted by any third party or public agency alleging, including, but not limited to, violations of CEQA or the CEQA Guidelines, the National Environmental Policy Act and/or other federal, state and local laws, rules and regulations, guidelines, and requirements for the Project while the Grant Agreement, or any of its terms, is in effect and shall survive the termination, for any reason, of the Grant Agreement or the AGREEMENT and shall remain in effect during the lifetime of the Project.

Section (5) CHILD SUPPORT LAWS

- (1) DISTRICT's Policy on Child Support Laws

LPS acknowledges that DISTRICT places a high priority on the enforcement of child support laws and the apprehension of child support evaders. LPS understands that it is DISTRICT's policy to encourage all DISTRICT contractors to voluntarily post DISTRICT's Los Angeles Most Wanted, Delinquent Parents List, in a prominent position at LPS place of business.

- (2) Child Support Compliance Program

As required by DISTRICT's Child Support Compliance Program (County Code Chapter 2.200), LPS shall maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653) and California Unemployment Insurance Code Section 1088.5, and shall implement lawfully served Wage and Earnings Withholding Orders or District Attorney Notice of Wage Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure, Section 706.031 and Family Code, Section 5246(b).

- (3) Termination for Noncompliance with Child Support Requirements

LPS shall maintain compliance with requirements of DISTRICT's Child Support Compliance Program as certified in LPS's Child Support Compliance Program Certification and as set forth in this AGREEMENT. Failure of LPS to maintain compliance with these requirements will constitute a default under this

AGREEMENT. Failure to cure such a default within ninety (90) days of notice by DISTRICT shall be grounds upon which DISTRICT may give notice of termination and terminate this AGREEMENT.

Section (6) CONSIDERATION OF HIRING GAIN/GROW EMPLOYEES

- (1) Should LPS require additional or replacement personnel after the effective date of this AGREEMENT, LPS shall give consideration for any such employment openings to participants in DISTRICT's Department of Public Social Services' Greater Avenues for Independence (GAIN) Program who meet LPS's minimum qualifications for the open position. DISTRICT will refer GAIN participants by category to LPS.

Section (7) NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

- (1) LPS shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015 (attached).

Section (8) PROHIBITION AGAINST USE OF CHILD LABOR

LPS shall:

- (1) Not knowingly sell or supply to DISTRICT any products, goods, supplies or other personal property manufactured in violation of child labor standards set by the International Labor Organization through its 1973 Convention Concerning Minimum Age for Employment; and,
- (2) Upon request by DISTRICT, provide the country/countries of origin of any products, goods, supplies, or other personal property LPS supplies to DISTRICT; and,
- (3) Upon request by DISTRICT, provide to DISTRICT the manufacturer's certification of compliance with all international child labor conventions.

Should LPS discover that any products, goods, supplies, or other personal property sold or supplied by LPS to DISTRICT are produced in violation of any international child labor conventions, LPS shall immediately provide an alternative, compliant source of supply.

Failure by LPS to comply with provisions of this clause will be grounds for immediate cancellation of this Agreement.

Section (9) TERMINATION FOR IMPROPER CONSIDERATION

DISTRICT may, by written notice to LPS, immediately terminate the right of LPS to proceed under this AGREEMENT if it is found that consideration, in any form, was offered or given by LPS, either directly or through an intermediary, to any DISTRICT officer, employee, or agent with the intent of securing this AGREEMENT or securing favorable treatment with

respect to the award, amendment, or extension of this AGREEMENT or the making of any determinations with respect to LPS performance pursuant to this AGREEMENT. In the event of such termination, DISTRICT shall be entitled to pursue the same remedies against LPS as it could pursue in the event of default by LPS.

LPS shall immediately report any attempt by a DISTRICT officer or employee to solicit such improper consideration. The report shall be made either to DISTRICT manager charged with the supervision of the employee or to DISTRICT Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 554-6861.

Among other items, such improper consideration may take the form of cash, discounts, services, the provision of travel, entertainment, or tangible gifts.

Section (10) NOTIFICATION

(1) Any notices, bills, invoices or reports relating to this AGREEMENT, and any request, demand, statement or other communication required or permitted hereunder shall be in writing and

a) shall be delivered to the representatives of the Parties at the addresses set forth below, except that any Party may change the address for notices by giving the other Party at least ten (10) days written notice of the new address:

DISTRICT:

Mr. Frank Kuo, Capital Project Manager
Watershed Management Division
County of Los Angeles Department of Public Works
900 South Fremont Avenue
Alhambra, CA 91803-1331

LPS:

-----, Project Manager

b) or when the District establishes a process to electronically upload some of the above stated information via the Web, the LOC shall submit the information accordingly as directed by the District.

Section (11) MUTUAL COVENANTS

(1) Governing Law: This AGREEMENT shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.

(2) Amendment: No variation, modification, change, or amendment of this

AGREEMENT shall be binding upon any Party unless such variation, modification, change, or amendment is in writing and duly authorized and executed by all the Parties. This AGREEMENT shall not be amended or modified by oral agreements or understandings among the Parties or by any acts or conduct of the Parties. Notwithstanding the above, the Parties agree that any amendment to the Grant Agreement shall become part of this AGREEMENT without the necessity of further written agreement between the Parties.

- (3) Entire Agreement: This AGREEMENT constitutes the entire AGREEMENT between the parties with respect to the subject matter of this AGREEMENT and supersedes all prior and contemporaneous agreements and understandings.
- (4) No Third Party Beneficiary/Successors and Assigns: This AGREEMENT is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provisions of this AGREEMENT.
- (5) Waiver: No waiver of any breach or default by any Party shall constitute a waiver of any other breach or default, nor shall any such waiver constitute a continuing waiver. Failure of any Party to enforce at any time or from time to time, any provision of this AGREEMENT shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.
- (6) Covenant: All provisions of this AGREEMENT, whether covenants or conditions, on the part of LPS shall be deemed to be both covenants and conditions.
- (7) Interpretation: All Parties have been represented by counsel in the preparation and negotiation of this AGREEMENT. Accordingly, this AGREEMENT shall be construed according to its fair language and any ambiguities shall not be resolved against the drafting Party.
- (8) Assignment: No Party shall assign this AGREEMENT or any of such Party's interest, rights, or obligations under this AGREEMENT without the prior written consent of the other Party, which consent shall not be unreasonably withheld except that any Party may assign the AGREEMENT, or any part thereof, to any successor governmental agency performing the functions of the assigning Party as its successor.
- (9) Manner of Execution. The AGREEMENT may be executed simultaneously in counterpart, each of which shall be deemed an original, but together, shall constitute but one and the same instrument.
- (10) Relationship of Parties: The Parties are, and at all times shall remain as to each other, wholly independent entities. No Party to this AGREEMENT shall have the power to incur any debt, obligation or liability on behalf of any other Party unless expressly provided to the contrary by this AGREEMENT. No employee, agent, or officer of a Party shall be deemed for any purpose whatsoever to be an agent, employee or officer of another Party.
- (11) Successors: This AGREEMENT shall be binding upon and shall insure to the benefit of the respective successors, heirs and assigns of each Party.

Section (12) NEGATION OF PARTNERSHIP

Nothing in this AGREEMENT shall be construed to render DISTRICT in any way or for any purpose a partner, joint venturer, or associate in any relationship with LPS, nor shall this AGREEMENT be construed to authorize either to act as agent for the other unless expressly provided in this AGREEMENT.

Section (13) SAVINGS CLAUSE

If any provision or provisions of this AGREEMENT shall be determined by any court to be invalid, illegal or unenforceable to any extent, the remainder of the AGREEMENT shall continue in full force and effect and this AGREEMENT shall be construed as if the invalid, illegal or unenforceable provision(s) had never been contained in this AGREEMENT .

Section (14) AUTHORITY TO ENTER INTO AGREEMENT

Each of the persons signing below on behalf of a Party represents and warrants that he or she is authorized to sign this AGREEMENT on behalf of such Party.

Section (15) DISTRICT LOBBYISTS

Each DISTRICT lobbyist, as defined in the Los Angeles County Code Section 2.160.010, retained by LPS shall be in full compliance with Chapter 2.160 of the Los Angeles County Code. LPS's signature on the AGREEMENT is its certification that it is in full compliance with Chapter 2.160. Failure on the part of any DISTRICT lobbyist retained by LPS to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this AGREEMENT upon which DISTRICT may immediately terminate or suspend this AGREEMENT.

Section (16) NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

LPS shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in the County of Los Angeles, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit C of this AGREEMENT and is also available on the Internet at www.babysafela.org for printing purposes.

Section (17) CONTRACTOR'S ACKNOWLEDGMENT OF DISTRICT'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW

LPS understands that it is DISTRICT's policy to encourage all DISTRICT contractors to voluntarily post the Safely Surrendered Baby Law poster in a prominent position at the contractor's place of business. LPS will also encourage its subcontractors, if any, to post this poster in a prominent position in the subcontractor's place of business. The County of Los Angeles Department of Children and Family Services will supply LPS with the poster to be used.

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IN WITNESS WHEREOF, the Parties hereto have caused this AGREEMENT to

be above written date.

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT

(By _____ Chief Engineer

APPROVED AS TO FORM:
RAYMOND G. FORTNER, JR.
County Counsel

By _____
Deputy

_____(LPS)

LPS

By _____

APPROVED AS TO FORM:
(NAME)

By _____

FK:jc

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Exhibit A

**STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES**

**GRANT AGREEMENT BETWEEN STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND**

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT

**AGREEMENT NUMBER 460007659
UNDER THE WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND
BEACH PROTECTION ACT OF 2002
(Water Code Section 79500 et seq.)**

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

GRANT AGREEMENT BETWEEN STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT

AGREEMENT NUMBER 4600007659
UNDER THE WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH
PROTECTION ACT OF 2002
(Water Code Section 79500 et seq.)

THIS GRANT AGREEMENT, entered into by and between State of California, acting by and through the Department of Water Resources, herein referred to as the "State" and the Los Angeles County Flood Control District, a public agency in the County of Los Angeles, State of California, duly organized, existing, and acting pursuant to the laws thereof, herein referred to as the "Grantee", which parties do hereby agree as follows:

1. **PURPOSE OF GRANT:** This Grant is made by State to Grantee to assist in financing projects associated with the Greater Los Angeles Region Integrated Regional Water Management Plan pursuant to Chapter 8 (commencing with Section 79560) of Division 26.5 of the California Water Code, hereinafter collectively referred to as "IRWM Program." Grant funds may be used only as provided in this Grant Agreement for Eligible Costs as included in Exhibit A, Work Plan.
2. **TERM OF GRANT AGREEMENT:** The term of this Grant Agreement begins on <DATE> (effective date), and terminates on <DATE>, or when all of the Parties' obligations under this Grant Agreement have been fully satisfied, whichever occurs earlier.
3. **SCHEDULE:** Grantee shall diligently perform or cause to be performed all IRWM Program work as described in Exhibit A, Work Plan, in accordance with Exhibit B, Schedule.
4. **GRANT AMOUNT:** The maximum amount payable by State under this Grant Agreement shall not exceed \$25,000,000.
5. **GRANTEE'S COST:** The reasonable total costs of the Program are estimated to be \$<INSERT AMOUNT> which are summarized in Exhibit C, Budget. Grantee agrees to fund or ensure funding of the difference, if any, between the estimate of IRWM Program cost in its grant application and the Grant Amount specified in paragraph 4. Grantee cost share is estimated to be \$<INSERT AMOUNT>.
6. **ELIGIBLE COST:** Grantee shall apply State Grant funds received only to Eligible Costs. Eligible Costs are the reasonable and necessary costs of engineering, design, legal fees, land and easement, preparation of environmental documentation, environmental mitigation, and project implementation. Only work performed after the effective date of this Grant Agreement shall be eligible for reimbursement. Costs incurred after November 5, 2002, and prior to the effective date of this Grant Agreement are not eligible for reimbursement. However, such costs may be considered, at State's discretion, as part of Grantee's funding match, if such costs were otherwise

reimbursable. Costs that are not reimbursable with grant funds include, but may not be limited to, the following:

- Costs incurred prior to November 5, 2002.
- Operation and maintenance costs, including post construction performance and monitoring costs.
- Purchase of equipment not an integral part of a project.
- Establishing a reserve fund.
- Purchase of water supply.
- Replacement of existing funding sources for ongoing programs.
- Support of existing agency requirements and mandates.
- Purchase of land in excess of the minimum required acreage necessary to operate as an integral part of a project, as set forth and detailed by engineering and feasibility studies, or land purchased prior to the effective date of this Grant Agreement.
- Payment of principal or interest of existing indebtedness or any interest payments unless the debt is incurred after execution of this Grant Agreement, the State agrees in writing to the eligibility of the costs for reimbursement before the debt is incurred, and the purposes for which the debt is incurred are otherwise eligible costs.
- Overhead not directly related to Program costs.

7. **GRANTEE RESPONSIBILITY:** Grantee and its representatives, with the authority to act for Grantee, shall be responsible for work and for persons or entities engaged in work, including, but not limited to, subcontractors, suppliers, and providers of services. Grantee or its representatives shall provide regular inspections of any construction work in progress. Grantee and its representatives shall fulfill its obligations under the Grant Agreement and the IRWM Program, and shall be responsible to keep all work under control.

Grantee shall be responsible for any and all disputes arising out of its contracts for work on the IRWM Program, including but not limited to bid disputes and payment disputes with Grantee's representatives, Local Project Sponsors, contractors and subcontractors. State will not mediate disputes between Grantee and any other entity concerning responsibility for performance of work.

8. **LOCAL PROJECT SPONSOR RESPONSIBILITY:** Grantee shall assign Local Project Sponsors to act on behalf of Grantee for the purposes of individual Project management, oversight, compliance, and operations and maintenance. Local Project Sponsors shall be assigned in accordance with the participating agencies identified in the Greater Los Angeles Region IRWM Plan. Grantee shall be considered a Local Project Sponsor for projects sponsored by Grantee.. Local Project Sponsors shall also act on behalf of Grantee in the fulfillment of Grantee responsibilities where specifically provided in this Grant Agreement. Exhibit G identifies Local Project Sponsors.

9. **RELATIONSHIP OF PARTIES:** Grantee and Local Project Sponsors are solely responsible for design, construction, and operation and maintenance of Projects within the Greater Los Angeles Region IRWM Program. Review or approval of plans, specifications, bid documents, or other construction documents by State is solely for the purpose of proper administration of grant funds by State and shall not be deemed to relieve or restrict responsibilities of Grantee and Local Project Sponsors under this Grant Agreement.

10. **GRANTEE REPRESENTATIONS:** Grantee accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Grant Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and statements made by Grantee in the application, documents, amendments, and communications filed in support of its request for California Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 financing. Grantee warrants that all Local Project Sponsors will be contractually required to comply with this Grant Agreement for their respective project or projects. In the event that Grantee fails to secure an agreement with any of the Local Project Sponsors by August 1, 2008, the Grantee will not be held responsible for the associated local project sponsor activities under Section 7 of this Grant Agreement, and State may reduce the grant according to the portion of grant intended for the nonparticipating Local Project Sponsor(s). In addition, in the event the Grantee fails to secure an agreement with any of the Local Project Sponsor(s), the Grantee shall submit to the Department a revised grant agreement Scope of Work within four months of the failure to secure such an agreement.

Grantee shall submit to the Department copies of all agreements with Local Project Sponsors within two months of the execution of such agreements.

11. **IRWM PROGRAM PERFORMANCE AND ASSURANCES:** Grantee agrees to faithfully and expeditiously perform or cause to be performed all IRWM Program work as described in the final plans and specifications under this Grant Agreement and implement the Program in accordance with applicable provisions of the law. In the event State finds it necessary to enforce this provision of this Grant Agreement in the manner provided by law, Grantee agrees to pay all costs incurred by State including, but not limited to, reasonable attorneys' fees, legal expenses, and costs.
12. **REQUIREMENTS FOR DISBURSEMENT:** Grantee shall, by <Enter Date>, meet all conditions precedent to the disbursement of money under this Grant Agreement, including Basic Conditions, paragraph 13. Failure by Grantee to comply by this date may, at the option of State, result in termination of the Grant Agreement under Exhibit D, Standard Conditions. For disbursements of funds for each project, Grantee shall continue to meet the Basic Conditions as well as the Conditions for Disbursement, paragraph 14.
13. **BASIC CONDITIONS:** State shall have no obligation to disburse money for a project under this Grant Agreement unless and until Grantee has satisfied for such project the State's requirements for disbursement in accordance with the California Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 which include:
- a) Adoption of an Integrated Regional Water Management Plan.
 - b) Grantee demonstrates the designated Local Project Sponsors for each project are aware of and comply with the provisions of the Grant Agreement between State and Grantee.
 - c) Grantee demonstrates the availability of sufficient funds to complete the project.
 - d) Grantee demonstrates that it has complied with all applicable requirements of the California Environmental Quality Act and the National Environmental Policy Act by submitting copies of any environmental documents, including environmental impact reports, environmental impact statements, negative declarations, mitigation agreements, and environmental permits as may be required prior to beginning construction/implementation.
 - e) For the term of this Grant Agreement, Grantee submits timely periodic progress reports as required by paragraph 21.

14. CONDITIONS FOR DISBURSEMENT: Prior to disbursement of funds, for each project, by State, Grantee shall submit to State:
- a) Final plans and specifications certified by a California Registered Civil Engineer as to compliance with the approved project as defined in paragraph 1.
 - b) A written statement that all necessary permits, easements, rights-of-way, and approvals as may be required by other State, federal, and/or local agencies as specified in paragraph 24 have been obtained.

15. METHOD OF PAYMENT: After the disbursement requirements in paragraph 12 are met, State will disburse the whole or portions of the Grant commitment to Grantee, following receipt from Grantee of an invoice for costs incurred, and timely progress reports as required by paragraph 21.

Invoices submitted by Grantee shall include the following information:

- a) Costs incurred for work performed in implementing the IRWM Program or program contracts during the period identified in the particular invoice.
- b) Costs incurred for any interests in real property (land or easements) that have been necessarily acquired for a project during the period identified in the particular invoice for the construction, operation, or maintenance of a project.
- c) Any appropriate receipts and reports for costs incurred.
- d) Invoices shall be submitted on forms provided by State and shall meet the following format requirements:
 - i. Invoices must contain the date of the invoice, the time period covered by the invoice, and the total amount due.
 - ii. Invoices must be itemized based on the categories specified in the Budget, Exhibit C. The amount claimed for salaries/wages/consultant fees must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = the total amount claimed).
 - iii. Each invoice shall clearly delineate those costs claimed for reimbursement from the State's grant amount, paragraph 4 and those costs that represent Grantee's and Local Project Sponsors' costs, as applicable, paragraph 5.
 - iv. Original signature and date (in ink) of Grantee's Project Manager

Payment will be made no more than monthly, in arrears, upon receipt of an invoice bearing the Grant Agreement number. Submit the original and three (3) copies of the invoice form to the following address:

Department of Water Resources
Division of Planning and Local Assistance
Conjunctive Water Management Branch
Attention: IRWM Grant Analyst

Overnight/Hand Delivery Address:
901 P Street, Room 213 A
Sacramento CA 95814

Mailing Address:
P. O. Box 942836
Sacramento, CA 94236-0001

16. DISBURSEMENT: Following the review of each invoice, State will disburse to Grantee the amount approved, subject to the availability of funds through normal State processes. Funds will be disbursed

by State in response to each approved invoice on a pro rata basis in accordance with the relative payment obligations of Grantee, paragraph 5, and State, paragraph 4, for the Total Cost, paragraph 5. Any and all money disbursed to Grantee under this Grant Agreement and any and all interest earned by Grantee on such money shall be used solely to pay Eligible Costs.

17. **WITHHOLDING OF GRANT DISBURSEMENT BY STATE:** If State determines that a project is not being constructed substantially in accordance with the provisions of this Grant Agreement, or that Grantee has failed in any other respect to comply substantially with the provisions of this Grant Agreement, and if Grantee does not remedy any such failure to State's satisfaction, State may withhold from Grantee all or any portion of the Grant Commitment and take any other action that it deems necessary to protect its interests.
18. **WITHHOLDING THE BALANCE OF GRANT AMOUNT:** Where a portion of the Grant Commitment has been disbursed to Grantee and State notifies Grantee of its decision to withhold the balance of the Grant Commitment pursuant to paragraph 17, the portion that has been disbursed shall thereafter be repaid immediately with interest, as directed by State. Refusal of Grantee to repay may, at the option of State, be considered a breach of contract and may be treated as default under paragraph 20.
19. **WITHHOLDING THE ENTIRE GRANT AMOUNT:** If State notifies Grantee of its decision to withhold the entire grant amount from Grantee pursuant to paragraph 17, this Grant Agreement shall terminate upon receipt of such notice by Grantee and shall no longer be binding on either party.
20. **DEFAULT PROVISIONS:** Grantee will be in default under this Grant Agreement if any of the following occur:
 - Breach of this Grant Agreement, or any supplement or amendment to it, or any other agreement between Grantee and State evidencing or securing Grantee's obligations;
 - Making any false warranty, representation, or statement with respect to this Grant Agreement;
 - Failure to operate or maintain projects in accordance with this Grant Agreement; or
 - Failure to make any remittance required by this Grant Agreement.Should an event of default occur, State may do any or all of the following:
 - Declare the Grant be immediately repaid, with interest, which shall be equal to State of California general obligation bond interest rate in effect at the time of the default;
 - Terminate any obligation to make future payments to Grantee;
 - Terminate the Grant Agreement; and
 - Take any other action that it deems necessary to protect its interests.
21. **SUBMISSION OF REPORTS:** The submittal and approval of all reports is a requirement for the successful completion of this Grant Agreement. Reports shall meet generally accepted professional standards for technical reporting and shall be proofread for content, numerical accuracy, spelling, and grammar prior to submittal to State. All reports shall be submitted to the State's Project Manager, and shall be submitted in both electronic and hard copy forms. If requested, Grantee shall promptly provide any additional information deemed necessary by State for approval of reports. Reports shall be presented in the formats described in Exhibit E, Report Format. The submittal and approval of reports is a requirement for initial and continued disbursement of State funds. Submittal of a Project Completion Report for each project listed on Exhibit A, Work Plan, is a requirement for the release of any funds retained for such project.
 - Quarterly Reports: Beginning <insert date>, and for the duration of the Grant Agreement, Grantee shall submit to State a quarterly report which explains the status of each project described in the Work Plan, Exhibit A. Reports shall be submitted by the last day of January, April, July, and October for the preceding quarter. Progress reports shall summarize the work

completed for each project during the reporting period. Quarterly reports shall include, for each project, a statement of progress compared to the schedule contained in Exhibit B, Schedule, and a comparison of actual costs to date to the budget contained in Exhibit C, Budget.

- **Project Completion Reports:** Grantee shall prepare and submit to State a separate Project Completion Report for each project included in Exhibit A, Work Plan. Grantee shall submit a Project Completion Report within ninety (90) calendar days of completion of all tasks associated with a project. Each Project Completion Report shall include a description of actual work done, a final schedule showing actual progress versus planned progress, and copies of any final documents or reports generated or utilized during a project. The Project Completion Report shall also include, if applicable, certification of final project by a registered civil engineer, consistent with Standard Condition D-14 of this Grant Agreement.
- **Grant Completion Report:** Upon completion of all projects included in Exhibit A, Work Plan, Grantee shall submit to State a Grant Completion Report. The Grant Completion Report shall be submitted within ninety (90) calendar days of submitting the Project Completion Report for the final project to be completed under the Grant Agreement. The Grant Completion Report shall include a brief description of each project completed and how they will further the goals of the IRWM Plan; identify any changes to the IRWM Plan, as a result of project implementation; and an updated IRWM Plan, if applicable.
- **Post Performance Reports:** Grantee shall submit a Post Performance Report for each project. Post Performance Reports shall be submitted to State within ninety (90) calendar days after the first operational year of a project has elapsed. In subsequent operational years, all Post Performance Reports for projects completed under this Grant Agreement shall be submitted concurrently, and no later than <INSERT DATE> of each year. This record keeping and reporting process shall be repeated, for each project, annually for a total of 10 years after the completed project begins operation.

22. **MONITORING REQUIREMENTS:** Grantee shall ensure that all groundwater projects and projects that include groundwater monitoring requirements are consistent with the Groundwater Quality Monitoring Act of 2001 (Part 2.76 (commencing with Section 10780) of Division 6 of the Water Code) and, where applicable, that projects that affect water quality shall include a monitoring component that allows the integration of data into statewide monitoring efforts, including where applicable, the surface water ambient monitoring program carried out by the State Water Resources Control Board. Exhibit H, Statewide Monitoring, provides guidance on such monitoring requirements.

23. **OPERATION AND MAINTENANCE OF PROJECT:** For the useful life of the projects and in consideration of the Grant made by State, Grantee agrees to ensure or cause to be performed the commencement and continued operation of the projects, and shall ensure or cause the projects to be operated in an efficient and economical manner; shall ensure all repairs, renewals, and replacements necessary to the efficient operation of the same are provided; and shall ensure or cause the same to be maintained in as good and efficient condition as upon its construction, ordinary and reasonable wear and depreciation excepted. The Grantee shall ensure that all operations and maintenance costs of the facilities and structures are contractually assumed by the appropriate Local Project Sponsors for their respective projects; State shall not be liable for any cost of such maintenance, management, or operation. Grantee or Local Project Sponsors may be excused from operations and maintenance only upon the written approval of the State's Project Manager. For purposes of this Grant Agreement, "operation costs" include direct costs incurred for material and labor needed for operations, utilities, insurance, and similar expenses.

“Maintenance costs” include ordinary repairs and replacements of a recurring nature necessary for capital assets and basic structures and the expenditure of funds necessary to replace or reconstruct capital assets or basic structures. Refusal of Grantee to ensure operation and maintenance of the projects in accordance with this provision may, at the option of State, be considered a breach of this Grant Agreement and may be treated as default under paragraph 20.

24. PERMITS, LICENSES, APPROVALS, AND LEGAL OBLIGATIONS: Grantee and Local Project Sponsors shall be responsible for ensuring any and all permits, licenses, and approvals required for performing their obligations under this Grant Agreement are obtained, and shall comply with the California Environmental Quality Act (California Public Resources Code Section 21000 *et seq.*) and other applicable federal, State and local laws, rules, and regulations, guidelines, and requirements for each project described in Exhibit A, Work Plan, prior to disbursement of funds under this Grant Agreement.

Without limiting the foregoing, Grantee and Local Project Sponsors shall keep informed of and take all measures necessary to ensure compliance with California Labor Code requirements, including but not limited to Section 1720 *et seq.* of the California Labor Code regarding public works.

25. NOTIFICATION OF STATE: For each project, Grantee shall promptly notify, in writing, State of the following items:
- a) Events or proposed changes that could affect the scope, budget, or work performed under this Grant Agreement. Grantee agrees that no substantial change in the scope of a project will be undertaken until written notice of the proposed change has been provided to State and State has given written approval for such change.
 - b) Any public or media event publicizing the accomplishments and/or results of this Grant Agreement and provide the opportunity for attendance and participation by State’s representatives. Grantee shall make such notification at least fourteen (14) calendar days prior to the event.
 - c) Completion of work on a project.
 - d) Final inspection of a project by a Registered Civil Engineer, as determined and required by State, and in accordance with Standard Condition D-14, and provide State the opportunity to participate in the inspection. Grantee shall make such notification at least fourteen (14) calendar days prior to the final inspection.

26. PROJECT MANAGERS: Either party may change its Project Manager upon written notice to the other party.
- State’s Project Manager: State’s Project Manager shall be the Chief, Division of Planning and Local Assistance, Department of Water Resources. State’s Project Manager shall be State’s representative and shall have the authority to make determinations and findings with respect to each controversy arising under or in connection with the interpretation, performance, or payment for work performed under the Grant Agreement.
 - Grantee’s Project Manager: Grantee’s Project Manager shall be <Enter Job Title>. Grantee’s Project Manager shall be the Grantee’s representative for the administration of the Grant Agreement and shall have full authority to act on behalf of the Grantee, including authority to execute all payment requests.

27. NOTICES: Any notice, demand, request, consent, or approval that either party desires or is required to give to the other party under this Grant Agreement shall be in writing. Notices may be

sent by any of the following means: (i) by delivery in person; (ii) by certified U.S. mail, return receipt requested, postage prepaid; (iii) by "overnight" delivery service; provided that next-business-day delivery is requested by the sender; or (iv) by facsimile transmission, followed by submission of a hard copy. Notices delivered in person will be deemed effective immediately on receipt (or refusal of delivery or receipt). Notices sent by certified mail will be deemed effective given seven (7) calendar days after the date deposited with the U. S. Postal Service. Notices sent by overnight delivery service will be deemed effective one business day after the date deposited with the delivery service. Notices sent by facsimile will be effective on the date of successful transmission, which is documented in writing. Notices shall be sent to the following addresses. Either party may, by written notice to the other, designate a different address that shall be substituted for the one below:

State of California
Department of Water Resources
Division of Planning and Local Assistance
Attention: Chief, Division of Planning and Local Assistance
Conjunctive Water Management Branch
Post Office Box 942836
Sacramento, California 94236-0001

(Representative)
(Grantee Name)
(Mailing Address)

28. INCORPORATION OF STANDARD CONDITIONS AND GRANTEE COMMITMENTS: The following exhibits are attached and made a part of this Grant Agreement by this reference:
- Exhibit A – Work Plan
 - Exhibit B – Schedule
 - Exhibit C – Budget
 - Exhibit D – Standard Conditions
 - Exhibit E – Report Format
 - Exhibit F – Grantee Resolution
 - Exhibit G – Local Project Sponsors
 - Exhibit H – Statewide Monitoring

IN WITNESS WHEREOF, the parties hereto have executed this Grant Agreement as of <Enter Date>.

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

LOS ANGELES COUNTY
FLOOD CONTROL DISTRICT

Mark W. Cowin
Deputy Director
Regional Planning and Water Management

Donald L. Wolfe
Chief Engineer

Approved as to Legal Form and Sufficiency

David Sandino
Chief Counsel
Office of Chief Counsel

DRAFT

**EXHIBIT A
WORK PLAN**

Updated information for all plan projects to be provided by LACFCD for insertion into this exhibit prior to execution of the grant agreement.

DRAFT

**EXHIBIT B
SCHEDULE**

Updated information for all plan projects to be provided by LACFCD for insertion into this exhibit prior to execution of the grant agreement.

DRAFT

**EXHIBIT C
BUDGET**

Updated information for all plan projects to be provided by LACFCD for insertion into this exhibit prior to execution of the grant agreement.

DRAFT

EXHIBIT D
STANDARD CONDITIONS

D.1 ACCOUNTING AND DEPOSIT OF GRANT DISBURSEMENT:

SEPARATE ACCOUNTING OF GRANT DISBURSEMENT AND INTEREST RECORDS:

Grantee shall account for the money disbursed pursuant to this Grant Agreement separately from all other Grantee funds. Grantee shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. Grantee shall keep complete and accurate records of all receipts, disbursements, and interest earned on expenditures of such funds. Grantee shall require its Local Project Sponsors, contractors, or subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by State at any and all reasonable times.

FISCAL MANAGEMENT SYSTEMS AND ACCOUNTING STANDARDS: The Grantee agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit tracing of grant funds to a level of expenditure adequate to establish that such funds have not been used in violation of state law or this Grant Agreement.

REMITTANCE OF UNEXPENDED FUNDS: Grantee, within a period of sixty (60) calendar days from the final disbursement from State to Grantee of grant funds, shall remit to State any unexpended funds that were disbursed to Grantee under this Grant Agreement and were not needed to pay Eligible Project Costs.

D.2 ACKNOWLEDGEMENT OF CREDIT: Grantee and Local Project Sponsors shall include appropriate acknowledgement of credit to the State and to all cost-sharing partners for their support when promoting the IRWM Program or associated grant funded projects or using any data and/or information developed under this Grant Agreement. During construction or implementation of each project, Grantee or Local Project Sponsors shall install a sign at a prominent location which shall include a statement that the project is financed under California Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002, administered by State of California, Department of Water Resources. Grantee shall notify State as each sign has been erected by providing them with a site map with the sign location noted and a photograph of each sign.

D.3 AMENDMENT: No amendment or variation of the terms of this Grant Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Grant Agreement is binding on any of the parties.

D.4 AMERICANS WITH DISABILITIES ACT: By signing this Grant Agreement, Grantee assures State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C., 12101 *et seq.*), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

D.5 AUDITS: State reserves the right to conduct an audit at any time between the execution of this Grant Agreement and the completion of the Program, with the costs of such audit borne by State. After completion of the Program, State may require Grantee to conduct a final audit, at Grantee's expense, such audit to be conducted by and a report prepared by an independent Certified Public Accountant. Failure or refusal by Grantee to comply with this provision shall be considered a

breach of this Grant Agreement, and State may take any action it deems necessary to protect its interests.

Grantee agrees that the awarding department, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Grant Agreement. Grantee agrees to maintain such records for a possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Grantee agrees to include a similar right of the State to audit records and interview staff in any contract related to performance of this Agreement.

D.6 BUDGET CONTINGENCY: If the Budget Act of the current year and/or any subsequent years covered under this Grant Agreement does not appropriate sufficient funds for the IRWM Program, this Grant Agreement shall be of no force and effect. This provision shall be construed as a condition precedent to the obligation of State to make any payments under this Grant Agreement. In this event, State shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Grant Agreement and Grantee shall not be obligated to perform any provisions of this Grant Agreement. Nothing in this Grant Agreement shall be construed to provide Grantee with a right of priority for payment over any other Grantee. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, State shall have the option to either cancel this Grant Agreement with no liability occurring to State, or offer a Grant Agreement amendment to Grantee to reflect the reduced amount.

D.7 COMPETITIVE BIDDING AND PROCUREMENTS: Grantee and Local Project Sponsors shall comply with all applicable laws and regulations regarding securing competitive bids and undertaking competitive negotiations in Grantee's contracts with other entities for acquisition of goods and services and construction of public works with funds provided by State under this Grant Agreement.

D.8 COMPUTER SOFTWARE: Grantee certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Grant Agreement for the acquisition, operation, or maintenance of computer software in violation of copyright laws.

D.9 CONFLICT OF INTEREST:
CURRENT STATE EMPLOYEES: No State officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency, unless the employment, activity, or enterprise is required as a condition of regular State employment. No State officer or employee shall contract on his or her own behalf as an independent contractor with any State agency to provide goods or services.

FORMER STATE EMPLOYEES: For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency. For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was

employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving State service.

D.10 DELIVERY OF INFORMATION, REPORTS, AND DATA: Grantee agrees to expeditiously provide, during work on the IRWM Program and throughout the term of this Grant Agreement, such reports, data, information, and certifications as may be reasonably required by State.

D.11 DISPOSITION OF EQUIPMENT: Grantee shall provide to State, not less than 30 days prior to submission of the final project invoice, a final inventory list of equipment purchased with grant funds provided by State. Grantee shall consult with State on the scope of the inventory not less than 60 days prior to the submission of the final project invoice. The inventory shall include all items with a current estimated fair market value of more than \$500 per item. Within 60 days of receipt of such inventory, State shall provide Grantee with a list of the items on the inventory that State will take title to. All other items shall become the property of Grantee. State shall arrange for delivery from Grantee of items that it takes title to. Cost of transportation, if any, shall be borne by State.

D.12 DISPUTES: In the event of an invoice dispute, payment will not be made until the dispute is resolved and a corrected invoice submitted. Failure to use the address exactly as provided may result in return of the invoice to the Grantee. Payment shall be deemed complete upon deposit of the payment, properly addressed, postage prepaid, in the United States mail.

Any claim that Grantee may have regarding the performance of this Grant Agreement including, but not limited to claims for additional compensation or extension of time, shall be submitted to the Director, Department of Water Resources, within thirty (30) calendar days of Grantee's knowledge of the claim. State and Grantee shall then attempt to negotiate a resolution of such claim and process an amendment to the Grant Agreement to implement the terms of any such resolution.

D.13 DRUG-FREE WORKPLACE REQUIREMENTS: Grantee, Local Project Sponsors, and its their contractors or subcontractors will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code 8350 *et seq.*) and have or will provide a drug-free workplace by taking the following actions:

a) Publish a statement notifying employees, contractors, and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors, or subcontractors for violations, as required by Government Code Section 8355(a).

b) Establish a Drug-Free Awareness Program, as required by Government Code Section 8355(b) to inform employees, contractors, or subcontractors about all of the following:

1. The dangers of drug abuse in the workplace,
2. Grantee's policy of maintaining a drug-free workplace,
3. Any available counseling, rehabilitation, and employee assistance programs, and
4. Penalties that may be imposed upon employees, contractors, and subcontractors for drug abuse violations.

c) Provide as required by Government Code Sections 8355(c), that every employee, contractor, and/or subcontractor who works under this Grant Agreement:

1. Will receive a copy of Grantee's drug-free policy statement, and
2. Will agree to abide by terms of Grantee's condition of employment, contract or subcontract.

- D.14 FINAL INSPECTIONS AND CERTIFICATION OF REGISTERED CIVIL ENGINEER:** Upon completion of a construction project and as determined by State, Grantee shall provide for a final inspection and certification by a California Registered Civil Engineer that the project has been completed in accordance with submitted final plans and specifications and any modifications thereto and in accordance with this Grant Agreement.
- D.15 GOVERNING LAW:** This Grant Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.
- D.16 INCOME RESTRICTIONS:** Grantee agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by Grantee under this Grant Agreement shall be paid by Grantee to State, to the extent that they are properly allocable to costs for which Grantee has been reimbursed by State under this Grant Agreement.
- D.17 INDEMNIFICATION:** Grantee agrees to indemnify State and its officers, agents, and employees against and to hold the same free and harmless from any and all claims, demands, damages, losses, costs, expenses, or liability due or incident to, either in whole or in part, and whether directly or indirectly, arising out of the IRWM Program.
- D.18 INDEPENDENT CAPACITY:** Grantee, and the agents and employees of Grantee, if any, in the performance of the Grant Agreement, shall act in an independent capacity and not as officers, employees, or agents of the State.
- D.19 INSPECTION OF BOOKS, RECORDS, AND REPORTS:** During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this Grant Agreement or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Grant Agreement. Failure or refusal by Grantee to comply with this provision shall be considered a breach of this Grant Agreement, and State may withhold disbursements to Grantee or take any other action it deems necessary to protect its interests, as provided in paragraph 20.
- D.20 INSPECTIONS OF PROJECTS BY STATE:** State shall have the right to inspect the work being performed at any and all reasonable times, providing a minimum of a 24-hour notice, during the term of the Grant Agreement. This right shall extend to any subcontracts, and Grantee shall include provisions ensuring such access in all its contracts or subcontracts entered into pursuant to its Grant Agreement with State.
- D.21 NONDISCRIMINATION:** During the performance of this Grant Agreement, Grantee, Local Project Sponsors, and their contractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Grantee, Local Project Sponsors, and their contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee, Local Project Sponsors, and their contractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) *et seq.*) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 *et seq.*). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Grant Agreement by reference and made a part hereof as if set forth in full. Grantee, Local Project

Sponsors, and their contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. Grantee shall include the nondiscrimination and compliance provisions of this clause in all contracts to perform work under the Grant Agreement.

- D.22 OPINIONS AND DETERMINATIONS:** The parties agree that review or approval of any IRWM Program applications, documents, permits, plans and specifications or other program information by the State is for administrative purposes only and does not relieve the Grantee of its responsibility to properly plan, design, construct, operate, maintain, implement, or otherwise carry out the IRWM Program.
- D.23 PROHIBITION AGAINST DISPOSAL OF PROJECT WITHOUT STATE PERMISSION:** Grantee and Local Project Sponsors shall not sell, abandon, lease, transfer, exchange, mortgage, hypothecate, or encumber in any manner whatsoever all or any portion of any real or other property necessarily connected or used in conjunction with the IRWM Program without prior permission of State. Grantee and Local Project Sponsors shall not take any action concerning the performance of this Grant Agreement, including but not limited to actions relating to user fees, charges, and assessments that could adversely affect the ability of Grantee to meet its obligations under this Grant Agreement, without prior written permission of State. State may require that the proceeds from the disposition of any real or personal property acquired through this Grant Agreement be remitted to State.
- D.24 REMEDIES, COSTS, AND ATTORNEY FEES:** Grantee agrees that any remedy provided in this Grant Agreement is in addition to and not in derogation of any other legal or equitable remedy available as a result of breach of this Grant Agreement, whether such breach occurs before or after completion of the IRWM Program, and exercise of any remedy provided by this Grant Agreement shall not preclude either party from pursuing any legal remedy or right which would otherwise be available. In the event of litigation between the parties hereto arising from this Grant Agreement, it is agreed that the prevailing party shall be entitled to such reasonable costs and/or attorney fees as may be ordered by the court entertaining such litigation.
- D. 25 RETENTION:** State shall, for each project, withhold ten percent (10.0%) of the funds requested by Grantee for reimbursement of Eligible Costs until the project is completed and Grantee has met requirements of paragraph 21, Submissions of Reports.
- D.26 RIGHTS IN DATA:** Grantee and Local Project Sponsors agree that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Grant Agreement shall be in the public domain. Grantee and Local Project Sponsors may disclose, disseminate and use in whole or in part, any final form data and information received, collected, and developed under this Grant Agreement, subject to appropriate acknowledgement of credit to State for financial support. Grantee and Local Project Sponsors shall not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so.
- D.27 SEVERABILITY OF UNENFORCEABLE PROVISION:** If any provision of this Grant Agreement is held invalid or unenforceable by a court of final jurisdiction, all other provisions of this Grant Agreement shall be construed to remain fully valid, enforceable, and binding on the parties.
- D.28 SUCCESSORS AND ASSIGNS:** This Grant Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties. No assignment or transfer of this Grant

Agreement or any part thereof, rights hereunder, or interest herein by Grantee shall be valid unless and until it is approved by State and made subject to such reasonable terms and conditions as State may impose.

- D.29 TERMINATION, IMMEDIATE REPAYMENT, INTEREST:** This Grant Agreement may be terminated by written notice at any time prior to completion of the IRWM Program, at the option of State, upon violation by Grantee of any material provision after such violation has been called to the attention of Grantee and after failure of Grantee to bring itself into compliance with the provisions of this Grant Agreement within a reasonable time as established by State. In the event of such termination, Grantee agrees, upon demand, to immediately repay to State an amount equal to the amount of grant funds disbursed to Grantee prior to such termination. In the event of termination, interest shall accrue on all amounts due at the highest legal rate of interest from the date that notice of termination is mailed to Grantee to the date of full repayment by Grantee.
- D.30 TIMELINESS:** Time is of the essence in this Grant Agreement.
- D.31 TRAVEL:** Grantee agrees that travel and per diem costs shall NOT be eligible for reimbursement with State funds, and shall NOT be eligible for computing Grantee cost match. Travel includes the costs of transportation, subsistence, and other associated costs incurred by personnel during the term of this Grant Agreement.
- D.32 WAIVER OF RIGHTS:** None of the provisions of this Grant Agreement shall be deemed waived unless expressly waived in writing. It is the intention of the parties here to that from time to time either party may waive any of its rights under this Grant Agreement unless contrary to law. Any waiver by either party of rights arising in connection with the Grant Agreement shall not be deemed to be a waiver with respect to any other rights or matters, and such provisions shall continue in full force and effect.

EXHIBIT E REPORT FORMAT

QUARTERLY REPORT

Quarterly Reports shall generally use the following format. This format may be modified as necessary to effectively communicate information on the various projects contained in the IRWM Program.

The quarterly report should reflect the status of all of the projects identified in the Grant Agreement. A brief summary of program status should also be provided.

PROJECT STATUS

For each project, describe the work performed during the quarter including:

PROJECT INFORMATION

- Legal matters;
- Engineering matters;
- Environmental matters;
- Status of permits, easements, rights-of-way, and approvals as may be required by other State, federal, and/or local agencies;
- Major accomplishments during the quarter (i.e. tasks completed, milestones met, meetings held or attended, press releases, etc.);
- Discussion of the ambient surface water and groundwater data submittal effort for the previous quarter, including a description of the data submitted and date(s) of submittal;
- Issues/concerns that have, will, or could affect the schedule or budget, with a recommendation on how to correct the matter; and
- Description of the differences between the work performed and the work outlined in the project work plans.
- Discussion of project performance achieved over the previous quarter relative to the criteria established in the Project Assessment and Evaluation Plan (PAEP).

COST INFORMATION

- Listing showing costs incurred during the quarter by the grantee, the local project sponsor overseeing the work, and each contractor working on the project. Listing should include hours per task worked on during the quarter for above personnel;
- A discussion on how the actual budget is progressing in comparison to the project budget included in the Work Plan; and
- A revised budget, by task, if changed from latest budget in Work Plan.

SCHEDULE INFORMATION

- A schedule showing actual progress verse planned progress as shown in Exhibit B;
- A discussion on how the actual schedule is progressing in comparison to the schedule in Exhibit B; and

- A revised schedule, by task, if changed from latest schedule in Exhibit B.

ANTICIPATED ACTIVITIES NEXT QUARTER

Provide a description of anticipated activities for the next quarterly reporting period.

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EXHIBIT E (CONTINUED) REPORT FORMAT

PROJECT COMPLETION REPORT

Project Completion Reports shall generally use the following format. This format may be modified as necessary to effectively communicate information on the various projects contained in the IRWM Program. A Project Completion Report is required for each project identified in the Work Plan, Exhibit A.

EXECUTIVE SUMMARY

The Executive Summary consists of a maximum of ten (10) pages summarizing project information (see report status section below for topics). The Executive Summary should include the following:

- Brief description of work proposed to be done in the original Water Security, Clean Drinking Water, Coastal And Beach Protection Act Of 2002 IRWM Implementation Grant application;
- Description of actual work completed and any deviations from the work plan identified in the Grant Agreement;
- Describe the mechanism or process that allows for continued performance monitoring of the projects in meeting the objectives of the IRWM Plan;
- Identify if as result of the project implementation, updates or changes the IRWM Plan are necessary. If updates or changes anticipated, summarize the necessary updates or changes and anticipated time frame when it will be accomplished; and
- Describe how the implemented projects will meet the regional priority identified in the IRWM Plan and how the project contributes to regional integration.

REPORTS AND/OR PRODUCTS

- Provide a copy of the final technical report or study;
- Provide a map and shapefile(s) showing the location of the completed project. A description of the geographic projection and datum used for the shapefile must be submitted with the shapefile (a NAD '27 datum and either a UTM 10 or UTM 11 projection, dependent on the project's location in the state, should be utilized);
- If any wells were constructed as part of the project, provide the following information: well logs; borehole geophysical logs; state well number; site information to include horizontal (NAD '27) and vertical (NAVD '88) datum to be determined within 0.5 feet;
- Provide an electronic copy of any as-built plans (media: CD-ROM; PDF format);
- Provide copies of any data collected along with location maps;
- If applicable, describe the findings of any study and whether the study determined the engineering, hydrologic, hydrogeologic, environmental, economic and financial feasibility of the project.

COST & DISPOSITION OF FUNDS INFORMATION

- A list of invoices showing:
 - The date each invoice was submitted to State;
 - The amount of the invoice;
 - The date the check was received; and

- The amount of the check. (If a check has not been received for the final invoice, then state this in this section.)
- A summary of final funds disbursement including:
 - Labor cost of personnel of agency/ major consultant /sub-consultants. (Indicate personnel, hours, rates, type of profession and reason for consultant, i.e., design, CEQA work, etc.);
 - Construction cost information, shown by material, equipment, labor costs, and change orders;
 - Any other incurred cost detail; and
 - A statement verifying separate accounting of grant disbursements.
- Summary of project cost including:
 - Accounting of the cost of project expenditure;
 - Include all internal and external costs not previously disclosed;
 - A discussion of factors that positively or negatively affected the project cost and any deviation from the original project cost estimate.

ADDITIONAL INFORMATION

- A final project schedule showing actual progress verse planned progress;
- Certification that the project was conducted in accordance with the approved work plan and any approved modifications thereto; and
- Submittal schedule for Post Performance Report and outline of the reporting format.

EXHIBIT E (CONTINUED) REPORT FORMAT

GRANT COMPLETION REPORT

The Grant Completion Report shall generally use the following format. This format may be modified as necessary to effectively communicate information on the various projects in the IRWM Program funded by this Grant Agreement.

EXECUTIVE SUMMARY

The Executive Summary consists of a maximum of twenty (20) pages summarizing information for the grant as well as the individual projects

REPORTS AND/OR PRODUCTS

- Summary of the regional priorities, objectives, and water management strategies of the IRWM Plan;
- Brief comparison of work proposed in the original Water Security, Clean Drinking Water, Coastal And Beach Protection Act Of 2002 IRWM Implementation Grant application and actual work done;
- Brief description of the projects completed and how they will further the goals identified in the IRWM Plan;
- Identify remaining work and mechanism for their implementation;
- Identify any changes to the IRWM Plan as result of project implementation; and
- Submit an updated IRWM Plan.

COST & DISPOSITION OF FUNDS INFORMATION

- A summary of final funds disbursement for each project.

ADDITIONAL INFORMATION

- A final schedule showing individual project's actual progress duration verse planned progress
- Certification that the Program was conducted in accordance with the approved work plan and any approved modifications thereto.
- Discussion of the synergies of the completed projects, including the integration of project benefits and a comparison of actual benefits versus those discussed in the original proposal.

EXHIBIT E (CONTINUED) REPORT FORMAT

POST PERFORMANCE REPORT

The Post Performance Report shall generally use the following format. This format may be modified as necessary to effectively communicate information on the operation of the various projects in the IRWM Program funded by this Grant Agreement.

REPORTS AND/OR PRODUCTS

- Summary of the operations of the project;
- Brief discussion of the project benefits to water quality, water supply, and the environment;
- Brief comparison and any explanations for any differences between the expected versus actual project success in meeting IRWM priorities as stated in the original IRWM Implementation Grant application;
- Summary of any additional costs and/or benefits deriving from the project; and
- Any additional information relevant to or generated by the continued operation of the project.

**EXHIBIT F
GRANTEE RESOLUTION**

To be provided by LACFCD for insertion into this exhibit prior to execution of the grant agreement.

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EXHIBIT G
LOCAL PROJECT SPONSORS

LOCAL PROJECT SPONSORS

Grantee has assigned, for each project, a Local Project Sponsor according to the roles of the participating agencies identified in the IRWM Plan. Local Project Sponsors may act on behalf of Grantee for the purposes of individual project management, oversight, compliance, and operations and maintenance. Local Project Sponsors are identified for each Sponsored Project below:

To be provided by LACFCD for insertion into this exhibit prior to execution of the grant agreement.

Local Sponsor Agency Designations		
Sponsored Project	Sponsor Agency	Agency Address
Project 1 - <Title>		
Project 2 - <Title>		
Project 3 - <Title>		
Project 4 - <Title>		

EXHIBIT H STATEWIDE MONITORING

REQUIREMENTS FOR STATEWIDE MONITORING AND DATA SUBMITTAL

Ambient surface water and groundwater quality monitoring data (may include chemical, physical, or biological data) shall be submitted to the State as described below, with a narrative description of data submittal activities included in project reports, as described in Exhibit E.

Surface water quality monitoring data shall be submitted to the Surface Water Ambient Monitoring Program (SWAMP), which is administered by the State Water Resources Control Board (SWRCB). If a project work plan contains a surface water monitoring element, the Grantee shall also prepare, maintain, and implement a Quality Assurance Project Plan (QAPP) in accordance with:

- The SWAMP QAPP and data reporting requirements.
- The USEPA's *EPA Requirements for Quality Assurance Project Plans* (Publication EPA AQ/R-5, 2001).

The QAPP shall be submitted to the State for review and a decision regarding approval. Any costs related to monitoring data collected prior to and not supported by the approved QAPP may not be reimbursed. Guidance for preparing the QAPP is available at:

<http://www.waterboards.ca.gov/swamp/qapp.html>

SWAMP comparable electronic format shall be followed. SWAMP data formats and templates can be accessed at:

<http://mpsl.mlml.calstate.edu/swdbcompare.html>

After the Grantee has followed the proper quality assurance and quality control (QA/QC) procedures and prepared the data for submittal to SWAMP, the data shall be uploaded, using the methodology established by SWAMP, to the California Environmental Data Exchange Network (CEDEN) database at the following link:

<http://bdat.ca.gov>

Groundwater quality monitoring data shall be submitted to the State through the SWRCB Groundwater Ambient Monitoring and Assessment (GAMA) Program. If a project work plan contains a groundwater ambient monitoring element, the Grantee shall contact the SWRCB GAMA Program for guidance on the submittal of ambient groundwater data. Information on the SWRCB GAMA Program can be obtained at:

<http://www.waterboards.ca.gov/gama/index.html>

Prior to the Grantee implementing any sampling or monitoring activities, State must be notified in writing as the planned procedure for submittal of groundwater data to GAMA. Any costs related to monitoring data collected prior to submittal of planned procedures may not be reimbursed.

REQUIREMENTS FOR PROJECT ASSESSMENT AND EVALUATION PLAN (PAEP) SUBMITTAL:

Project Assessment and Evaluation Plans (PAEPs) shall be prepared for each project receiving grant funding. For each project, a PAEP shall be submitted to State prior to project construction or monitoring, and as deemed appropriate by State. For information about preparing PAEPs and the recommended content, relevant documentation may be found at the following web site:

<http://www.waterboards.ca.gov/funding/paep.html>