

## ***STAFF REPORT***

**To:** Coastside County Water District Board of Directors  
**From:** David Dickson, General Manager  
**Agenda:** March 9, 2010

Report

Date: March 5, 2010

**Subject:** Water Reclamation Update

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### **Recommendation:**

None. Information only.

### **Background:**

#### **1. Principles of Agreement**

Following the Board's action on February 9, 2010 approving the Principles of SAM-CCWD Agreement for Water Reclamation, I notified Sewer Authority Mid-Coastside (SAM) of the decision in the attached letter (Attachment A). The SAM Board discussed the District's action and the Principles at a special meeting on February 17. At that meeting, SAM staff received direction to work on the Principles with SAM's counsel and with David Schricker, District Counsel for Montara Water and Sanitary District, to address a number of concerns raised by directors. The revised Principles would be brought back to the SAM Board for further consideration at their March 22 meeting.

#### **2. SAM Funding Application and Request for Letter of Support**

In developing an application for recycled water project funding which was submitted to Rep. Anna Eshoo's office on February 17, 2010, SAM requested a letter of support from CCWD in a letter dated February 12, 2010 (Attachment B). I felt that providing such a letter would be inconsistent with the commitments the District has made as a member of the Bay Area Recycled Water Coalition (BARWC) and so informed SAM in a letter dated February 17 (Attachment C).

While there may be some chance that SAM could obtain funding through a go-it-alone strategy, I believe that the best approach to obtaining Federal funds for the coastside water recycling project will be for CCWD and SAM to work together through the BARWC process. I will continue to work with SAM staff toward this goal.



February 10, 2010

Mr. John F. Foley III  
Manager  
Sewer Authority Mid-Coastside  
1000 N. Cabrillo Highway  
Half Moon Bay, CA 94019

**Re: February 9, 2010 CCWD Board Action on Recycled Water Principles of Agreement**

Dear Jack:

I write on behalf of the Coastside County Water District Board of Directors to communicate their action on February 9, 2010 regarding the Principles of Agreement for Recycled Water Between SAM and CCWD. The document CCWD staff presented for their consideration was the one we developed in collaboration with Sewer Authority Mid-Coastside (SAM) staff which you presented to the SAM Board of Directors at their January 25, 2010 meeting (copy attached).

By unanimous vote, the CCWD Board took the following action:

Approve the [attached] Principles of Agreement for Recycled Water between SAM and CCWD and confirm that CCWD will not reimburse SAM or pay for any recycled water project costs incurred before SAM and CCWD have executed a recycled water project agreement, unless the CCWD Board expressly authorizes such expenditure.

I look forward to working with you to develop the recycled water agreement.

Sincerely,

A handwritten signature in black ink, appearing to read 'David R. Dickson', with a long horizontal flourish at the end.

David R. Dickson  
General Manager

cc: Patrick Miyaki, District Counsel  
Chris Mickelsen, President

Principles of Agreement for Recycled Water  
Between SAM and CCWD

(draft of January \_\_, 2010)

## BASIS FOR AGREEMENT

The Sewer Authority Mid-Coastside (SAM) is responsible for the treatment and disposal of wastewater collected from within its service area; within the SAM service area, two agencies, the Coastside Water District (CCWD) and the Montara Water and Sanitary District (MWSD) are retail water suppliers within their respective service areas.

It has been proposed that recycled water treatment facilities be constructed at the SAM treatment plant site in order to treat the wastewater generated at that site to a water quality level sufficient for its use as recycled water.

A project (Initial Project) has been proposed which consists of the construction at the treatment plant site of recycled water treatment facilities designed to serve CCWD customers located south of the treatment plant site, and a recycled water transmission and distribution system to serve one or more of those customers.

It is understood that MWSD may desire to obtain recycled water from SAM in order to provide recycled water to its customers and that, in order to do so, facilities beyond those proposed in the Initial Project would be required. Accordingly, SAM and CCWD intend to proceed with the financing, design, and construction of the Initial Project at no cost to MWSD. However, it is understood that, at some future date, MWSD may request that, pursuant to a separate agreement related thereto, recycled water treatment, transmission, and distribution facilities be financed, designed, and constructed in order to provide recycled water to MWSD customers at no cost to CCWD.

## TERMS AND CONDITIONS

The purpose of the Agreement is to set out the terms and conditions pursuant to which SAM and CCWD will agree to finance, design, construct and operate the Initial Project, including the following:

1. *Jurisdiction:* SAM will be the producer of the recycled water. CCWD will be the distributor of recycled water to all recycled water customers within CCWD's service area.
2. *Point of Delivery:* The Point of Delivery of recycled water from SAM to CCWD shall be defined as that point in the recycled water treatment facility immediately downstream of the last treatment unit.
3. *Design and Construction:* SAM will be responsible for the design and construction of the recycled water treatment facilities to be constructed. The facilities will be designed to satisfy the water quality and production rate specified by CCWD. As a condition of

cost reimbursement by CCWD, CCWD shall have the right to approve design of the facility, which approval shall not be unreasonably withheld.

CCWD will be responsible for design and construction of all facilities for transmission and distribution of recycled water.

4. *CEQA*: Each party will be responsible for complying with CEQA with respect to the portion of the Initial Project which it is proposing to construct, it being understood that the parties will need to coordinate with respect thereto.

5. *Permits*: As much as practicable and for the sake of expedience, the parties will jointly apply for permits from the Regional Water Quality Control Board and the Department of Public Health and for a coastal development permit and construction permits. If not practicable or expedient, then the parties will separately apply for those permits.

6. *Financing*: CCWD will reimburse SAM for its costs associated with the design and construction of the recycled water treatment facilities needed to meet CCWD's requirements. Grant funds obtained by either party for recycled water project planning, design, or construction shall be applied to the project to reduce the overall cost of design and construction.

6. *Facility Ownership*: SAM will own, operate and maintain the recycled water treatment facilities to the point of delivery to CCWD. CCWD will own, operate and maintain the recycled water transmission and distribution facilities downstream of the point of delivery.

7. *Operation and Maintenance*: SAM will operate and maintain the recycled water treatment facilities to the point of delivery. CCWD will operate and maintain the recycled water transmission and distribution facilities downstream of the point of delivery.

CCWD will reimburse SAM for all costs, including overhead, it incurs in connection with the operation and maintenance of the recycled water treatment facilities to the point of delivery.

8. *Subsequent Projects*: Nothing in the agreement between SAM and CCWD is intended to preclude the ability of SAM to provide recycled water to MWSD, additional recycled water to CCWD, or both, through the design, financing and construction of additional recycling facilities at the treatment plant site.

A PUBLIC AGENCY  
SERVING  
City of Half Moon Bay  
Granada Sanitary District  
Montara Water and Sanitary District

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**SEWER AUTHORITY MID-COASTSIDE**

1000 N. Cabrillo Highway  
Half Moon Bay, CA 94019  
(650) 726-0124  
FAX (650) 726-7833  
[www.samcleanswater.org](http://www.samcleanswater.org)

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February 12, 2010

Dave Dickson  
Coastside County Water District  
766 Main Street  
Half Moon Bay, CA 94019

**RE: Letter of support for the Mid-Coastside Region Recycled Water Project**

Dear Mr. Dickson,

We would like to thank the Coastside County Water District for determining that the Mid-Coastside Region Recycled Water Project (Project) as being either strategic or significant for the region and its economy. We believe that this Project will be of benefit and positive impact to the Mid-Coastside Region.

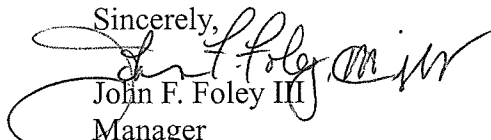
This Project will construct a recycled water facility at the existing regional wastewater treatment plant owned and operated by the Sewer Authority Mid-Coastside (SAM). The recycled water delivery system will replace the use of potable water for irrigation purposes, reduce draw on local aquifers, reduce Region's dependency on imported water, reduce wastewater discharges into the Monterey Bay National Marine Sanctuary and the Gulf of Farralone, contribute to restoration of federally listed species habitat in the Region, and improve the socioeconomic viability of the Region. Currently, several of the largest business enterprises in the region depend almost entirely on the ever depleting reliability of imported water for their business needs. The regional Recycled Water Project will greatly contribute to the economic stability of the region through the increased assurance of sustainable water supply for businesses and residents.

Funding for this Project is being pursued through the House Appropriations Committee via the office of Congresswoman Anna G. Eshoo. It is the hope of SAM that House Appropriations Committee will be able to provide funding for a 0.8 MGD Recycled Water Treatment Plant to begin providing this sustainable resource to Mid-Coastside customers as early as 2011.

Contact for the office of Congresswoman Anna G. Eshoo:  
Congresswoman Anna G. Eshoo  
698 Emerson Street  
Palo Alto, California 94301

We are thankful for your continued support for this very important Project. We would greatly appreciate an electronic copy of your signed letter of support to be sent to [jack@samcleanswater.org](mailto:jack@samcleanswater.org) by noon Tuesday, February 16, 2010. Please find attached a sample letter of support for your use. If you have any questions please feel free to contact me at (650) 726-0124.

Sincerely,



John F. Foley III  
Manager

Sewer Authority Mid-Coastside



February 17, 2010

Mr. John F. Foley III  
Manager  
Sewer Authority Mid-Coastside  
1000 N. Cabrillo Highway  
Half Moon Bay, CA 94019

**Re: Request for Funding Application Letter of Support**

Dear Jack:

I write to respond to your letter dated February 12, 2010 requesting a letter of support for Sewer Authority Mid-Coastside's (SAM) application to Rep. Anna Eshoo for water recycling project funding. Coasts County Water District (CCWD) will not provide a letter of support, as doing so would be inconsistent with CCWD's commitments as a Participating Agency in the Bay Area Recycled Water Coalition (BARWC). For reasons I will explain further below, I urge SAM to work through the Federal funding process with CCWD and BARWC rather than pursuing this funding request with Rep. Eshoo.

As I have told you and the SAM Board of Directors, the District, by action of its Board of Directors at the September 8, 2009 meeting, joined the BARWC in order to seek funding for a joint CCWD-SAM recycled water project. In taking this action the District's Board affirmed its belief that working through BARWC, rather than acting alone to advocate for a single project, is the best way to pursue federal funding available under Title XVI of the Reclamation Wastewater and Groundwater Study and Facilities Act. I have attached my staff report for the September 8 meeting, which includes an introduction to BARWC and its goals, along with a copy of the BARWC Memorandum of Agreement.

In executing the BARWC Memorandum of Agreement (MOA), CCWD appointed Bay Area Clean Water Agencies (BACWA) as its representative for the purpose of seeking Federal funding. Section III.1 of the BARWC MOA reads as follows:

1. The PARTIES hereby agree that Bay Area Clean Water Agencies (BACWA), will be the legal authority to represent PARTICIPATING AGENCIES in pursuit of the Title XVI grants under the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992 (Public Law 102-575), and will act as the regional entity on behalf of PARTICIPATING AGENCIES.

Section III.2 of the MOA reads, in part:

2. The PARTIES agree that BACWA will be listed as the entity submitting the authorization and appropriation requests to members of Congress and that BACWA support of PARTICIPATING AGENCY legislative efforts may include review of and signature on letters of support drafted by PARTICIPATING AGENCIES, and attending hearings and/or meetings with congressional representatives and their staff.

Mr. John F. Foley III  
February 17, 2010  
Page 2

The appropriations request you are submitting, in attempting to circumvent the Title XVI requirements every other project is required to meet, has little chance of success, while potentially creating the kind of legislative confusion the unified BARWC approach endeavors to prevent. Under Title XVI, a project must first be authorized through an act of Congress before it can obtain an appropriation. The CCWD-SAM project is not among those BARWC is currently shepherding through the authorization process. On October 15, 2009 the House of Representatives passed H.R.2442, the "Bay Area Regional Water Recycling Program Expansion Act", authorizing a number of BARWC projects. With passage of a Senate authorization bill still months away, it is highly unlikely Congress would take up a separate action to authorize the SAM project in the current session. This would clearly preclude obtaining any Fiscal Year 2011 funding, even if SAM were able to comply with all of the other Title XVI requirements.

Given that any expectation of obtaining an appropriation through this request is probably unrealistic, I believe it would be more productive for SAM to withdraw its request to Rep. Eshoo and to work with CCWD and BARWC in seeking funding for a joint CCWD-SAM reclamation project. Under this approach, we would seek project authorization in the 2011-2012 session of Congress and an appropriation in Fiscal Year 2012 or 2013. This would allow sufficient time for us to meet funding prerequisites, including preparation of a Title XVI Feasibility Study and completion of environmental documentation in compliance with the National Environmental Policy Act.

CCWD remains committed to working in partnership with SAM to bring the benefits of water recycling to the coastside. I look forward to focusing in the coming weeks on the agreement which will provide the foundation for cooperation between our agencies.

Sincerely,

A handwritten signature in black ink, appearing to read "David R. Dickson". The signature is fluid and cursive, with a long horizontal stroke at the end.

David R. Dickson  
General Manager

**STAFF REPORT**

**To:** Coastside County Water District Board of Directors  
**From:** David Dickson, General Manager  
**Agenda:** September 8, 2009

Report

Date: September 3, 2009

**Subject:** Authorization for District to Become a Participating Agency in the Bay Area Recycled Water Coalition

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**Recommendation:**

Authorize execution of the Membership Addendum to the Bay Area Recycled Water Coalition Memorandum of Agreement making the District a Participating Agency.

**Background:**

As the District works with Sewer Authority Mid-Coastside and reclaimed water customers to develop a water reclamation project, pursuing grant funding from any and all available sources is essential. Joining the Bay Area Recycled Water Coalition (BARWC) is the best way to pursue federal funding available under Title XVI of the Reclamation Wastewater and Groundwater Study and Facilities Act.

BARWC is a group of cities and agencies in the Bay Area working together to represent the regional need for funding for water reuse. They have been successful in obtaining significant federal funding for Participating Agency projects. In FY 2009, Congress appropriated \$11.58 million for the authorized BARWC projects, and BARWC is seeking \$38.02 million in FY2010 funding. Attachment A provides further information on BARWC and the regional reclamation projects.

In order to seek funding for our reclamation project through BARWC, the District needs to become a Participating Agency by executing the Membership Addendum to the BARWC Memorandum of Agreement. The Memorandum and the Addendum are included as Attachment B. Participating agency costs are determined annually and are expected to be \$7,500 - \$10,000 in 2010. We would also need to complete a Title XVI Feasibility Study in order to be eligible for funding.

**Fiscal Impact:**

\$7,500 - \$10,000, plus feasibility study costs.

**From:** Quinn, Caroline  
**To:**  
**Subject:** BAY AREA RECYCLED WATER FUNDING OPPORTUNITY

Dear Colleague:

If your agency has a recycled water program, or if water recycling is one of the solutions you are developing for the future, you are invited to become part of the Bay Area Recycled Water Coalition (BARWC). BARWC is an independent group of cities and agencies in the San Francisco Bay Area working together to represent our regional need for funding for water reuse.

BARWC has been successful at receiving Federal Authorization and Appropriation for our program, as well as Federal administration inclusion in the President's budget for 2010.

Authorization Success:

- In 2008, BARWC was acknowledged by Congress with the enactment of Public Law 110-229, which authorized seven new projects for federal funding through the Bureau of Reclamation's Title XVI program.
- In May, The Bay Area Regional Water Recycling Program Expansion Act of 2009 (HR 2442) was introduced in the House and SB 1138 in the Senate to authorize six new BARWC projects for Federal funding. The House Bill was cosponsored by nine members of the Bay Area Congressional Delegation.

Appropriation Success:

- In FY 2009, Congress appropriated \$11.58 million for the authorized BARWC projects.
- We are currently seeking \$38.02 million in FY 2010 appropriations for BARWC projects.

Federal Budget Success:

- \$3 million for BARWC projects is included in the FY 2010 President's Budget request.

BARWC effectiveness is due to our unique regional approach which we developed in response to a request by Sen. Dianne Feinstein that federal appropriation requests submitted to her office be a part of a greater regional solution. This regional approach was subsequently endorsed by the House Appropriations Committee, which stated in their June report, "The committee commends the regional willingness (of the BARWC) to work together in pursuing needed water recycling projects."

BARWC operates in partnership with the Bay Area Clean Water Agencies (BACWA) and is open to any Bay Area agency with a recycled water project that can be considered for authorization or appropriation.

Please see the attached documents for more on how the BAY AREA RECYCLED WATER COALITION works to obtain federal funding:

- Flyer describing the coalition, listing agencies and projects
- The "Ins & Outs" of the Bay Area Recycled Water Coalition
- Expression of Interest/Questionnaire form

Or visit our website at [www.barwc.org](http://www.barwc.org).

If you are interested in joining the Bay Area Recycled Water Coalition, please email the enclosed Expression of Interest form to Caroline Quinn at [carolineq@ddsd.org](mailto:carolineq@ddsd.org) no later than August 10<sup>th</sup>.

*If this email is duplicative, please accept our apologies; we are working from several email lists to make certain we reach out to as many people as possible who have an interest in securing a federal recycle water partnership in the Bay Area. If you know of an agency that may be interested, please feel free to pass this information on to them or provide their name to us to follow-up.*

Thank you,

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Caroline Quinn, P.E.  
Engineering Services Director  
Delta Diablo Sanitation District  
2500 Pittsburg-Antioch Highway  
Antioch, CA 94509  
925.756.1900  
[carolineq@ddsd.org](mailto:carolineq@ddsd.org)

## Ins and Outs of Joining Bay Area Recycled Water Coalition

### Membership Benefits

#### **Regional Approach to Federal Funding**

- Consistent with the direction given by Senator Feinstein and endorsed by the House Appropriations Committee
- United in our goals rather than competing for scarce federal funds
- Dedicated Washington D.C. based lobbyist focused on our program
- Consistent message advocating for our program
- Coordination, collaboration, information sharing
- Shared advocacy costs – economy of scale
- Increased project profile with the Bureau of Reclamation

#### **Organized United Support by Federally Elected Officials**

- Collective support of Bay Area Congressional Delegation
- Regionally significant programs – more competitive

#### **Bay Area-Wide Media Outreach**

- Joint editorial board meetings
- Endorsement by multiple news publications

### Membership Activities on an Annual Basis

Coalition activities are planned and funded on an annual cycle reflecting needs to prepare for and interact in the federal legislative process. The federal advocacy contract is on a calendar year basis, since this dovetails with the legislative cycle. While membership is committed on an annual basis, obtaining federal authorization then appropriation is a two-year minimum, often longer, process.

June - August	Outreach to new agencies who may wish to join the Coalition.
September 30	Finalize proposed list of BARWC agencies and projects that will seek federal authorization and/or appropriation through the Title XVI program in the following calendar year. To seek a federal appropriation, authorizing legislation for the project must be completed and significant construction planned for completion in the year of the requested appropriation.
December 1	All Participating agencies have obtained necessary internal approvals for cost sharing for the upcoming calendar year.

### Membership Costs

Participating agency costs are determined annually and are expected to be in the range of \$8,500-\$10,000 per project, depending upon the number of projects for 2010.

### **Membership Obligations**

- Sign the Memorandum of Agreement
- Conduct the study and reporting required by Title XVI and work with the Bureau of Reclamation to obtain a determination of feasibility for the project.
- Complete NEPA for the project
- Share costs for advocacy (evenly divided among projects)
- Financial capability to fund the non-Federal share

**MEMORANDUM OF AGREEMENT  
BAY AREA RECYCLED WATER COALITION (BARWC)  
FEDERAL LEGISLATIVE EFFORTS**

This agreement is made and executed this \_\_\_ day of \_\_\_\_\_, 2008, by and between the City of Mountain View, a Charter City and Municipal Corporation; City of Palo Alto, a Charter City; City of Redwood City, a Charter City; and the City of San Jose, a Municipal Corporation, and administering agency for the San Jose/Santa Clara Water Pollution Control Plant, a joint powers agency formed pursuant to California Government Code section 6500, et seq.; the Delta Diablo Sanitation District (“DDSD”), a County Sanitation District formed pursuant to California Health and Safety Code Section 4700 et seq.; North Coast County Water District, formed under the County Water District Act, California Water Code Section 30000, et. seq.; Santa Clara Valley Water District, a Special District created by an act of the California Legislature, “PARTICIPATING AGENCIES,” and the Bay Area Clean Water Agencies, a joint powers agency formed pursuant to California Government Code section 6500 et seq.

**RECITALS**

1. WHEREAS, Title XVI of the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992 (also known as Public Law 102-575) authorized a feasibility study of the potential for development of demonstration and permanent facilities to reclaim water in the San Francisco Bay Area, bringing Bay Area agencies together to study opportunities to use recycled treated wastewater for beneficial uses; and authorized the planning, design and construction for the San Jose Water Reclamation and Reuse Program; and
2. WHEREAS, the Bay Area Recycled Water Master Plan, completed in 1999, identified opportunities to use 125,000 acre-feet per year (AF/yr) by 2010, and 240,000 AF/yr by 2025; and
3. WHEREAS, Bay Area agencies have invested nearly \$300 million of local funds in water recycling projects, and many more projects are ready to be built; and
4. WHEREAS, federal funding is essential to support these highly leveraged, locally managed, projects to help ensure the security of water supplies for years to come; and
5. WHEREAS, Public Law 102-575 also provides a program for Federal participation (through cost sharing) in specific water reuse projects up to certain amounts specified in the Act; and
6. WHEREAS, PARTICIPATING AGENCIES have identified 8 projects for which they wish to seek near-term federal funding; and
7. WHEREAS, PARTICIPATING AGENCIES anticipate identifying future projects for which they may wish to secure federal funding; and
8. WHEREAS, federal funding monies will not be available for any authorized project until such funds have been specifically appropriated by Congress; and
9. WHEREAS, Public Law 102-575 requires that projects complete a feasibility determination process administered through the United States Bureau of Reclamation and that specific authority for funding be legislatively granted; and

10. WHEREAS, PARTICIPATING AGENCIES have collaborated in efforts to promote legislation authorizing federal funding for Bay Area recycled water projects; and
11. WHEREAS, the United States House of Representatives on July 23, 2007, passed HR 1526 amending the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992 and authorizing the Bay Area Regional Water Recycling Program and a companion bill was introduced in the Senate on May 24, 2007; and
12. WHEREAS, Senate Bill 2739, the Consolidated Natural Resources Act of 2008, containing the HR 1526 language, was introduced on March 10, 2008 and passed by the full Senate on April 10, 2008; and
13. WHEREAS, PARTICIPATING AGENCIES desire to continue efforts to obtain necessary legislation authorizing federal funding for Bay Area recycled water projects; and
14. WHEREAS, PARTICIPATING AGENCIES desire to collaborate in efforts to promote legislation to appropriate federal funding for authorized projects and for other Bay Area projects that may be authorized in the future.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

**I. DEFINITIONS**

1. PARTIES: All Participating Agencies and the Bay Area Clean Water Agencies.
2. PARTICIPATING AGENCIES: Agencies that have recycled water projects authorized through Title XVI of the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992 (also known as Public Law 102-575) or that intend to actively seek congressional authorization and appropriation under the terms of this Agreement, for projects covered under Title XVI, and are party to this Agreement.
3. AUTHORIZED PROJECT: A project that has been enacted into federal law.

**II. MEMBERSHIP ELIGIBILITY**

Any public agency in the nine-county Bay Area that is developing a recycled water project and has an interest in securing federal participation through Title XVI can become a PARTICIPATING AGENCY upon approval of such membership by a majority of the Parties and execution of the Membership Addendum attached hereto as Attachment 1. Any Addendum must be approved on or before September 30 in order to be effective for the forthcoming calendar year.

**III. PARTICIPATION AND ROLES IN FEDERAL LEGISLATIVE EFFORTS**

1. The PARTIES hereby agree that Bay Area Clean Water Agencies (BACWA), will be the legal authority to represent PARTICIPATING AGENCIES in pursuit of the Title XVI grants under the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992 (Public Law 102-575), and will act as the regional entity on behalf of PARTICIPATING AGENCIES.

2. The PARTIES agree that BACWA will be listed as the entity submitting the authorization and appropriation requests to members of Congress and that BACWA support of PARTICIPATING AGENCY legislative efforts may include review of and signature on letters of support drafted by PARTICIPATING AGENCIES, and attending hearings and/or meetings with congressional representatives and their staff. BACWA will bill the PARTICIPATING AGENCIES for the costs it incurs for these activities (“BACWA Administrative Costs”) and the PARTICIPATING AGENCIES agree to be individually liable for such BACWA Administrative Costs as provided in Section VI, below. Any documents BACWA requests from a PARTICIPATING AGENCY to support its legislative role will be prepared by the respective PARTICIPATING AGENCY at its own expense.
3. The PARTIES agree that all appropriations requests pursuant to this AGREEMENT shall include language directing USBR to enter into grant agreements with the PARTICIPATING AGENCIES for reimbursement of all eligible costs of the projects designated in the Appropriations Request List developed by the PARTICIPATING AGENCIES pursuant to Section V of this AGREEMENT, in accordance with the pro rata distribution formula set forth in Section VII below. Any agreement required by USBR shall subject to PARTICIPATING AGENCY accepting the terms thereof.
4. PARTICIPATING AGENCIES agree to provide for their own projects all necessary in kind services including providing background information, project or program descriptions, planning, environmental review, federal feasibility documentation and determination, design, construction and coordination, project or program status reports, meeting attendance, review of documents, Board or Council resolutions (if needed), and any other staff support required to support federal advocacy efforts. BACWA shall have no responsibility for provision of any of these services.
5. PARTICIPATING AGENCIES agree that all recycled water projects for which federal participation is sought through Title XVI that meets the terms of this AGREEMENT shall enjoy the same Bay Area wide legislative priority for funding and authorization regardless of project size or congressional district in which the project is located.
6. Each PARTICIPATING AGENCY is committed to securing or assisting in securing the support of its House of Representatives member(s) to actively advocate on behalf of the Bay Area Recycled Water Coalition approach. Each PARTICIPATING AGENCY will request its House of Representative member(s) to place the Bay Area regional recycled water Title XVI requests as a very high priority in order to support and reward the regional approach, even if the list of projects for any given year does not have a project in his/her district.
7. No later than September 30 of each calendar year, PARTICIPATING AGENCIES will select among themselves one Agency to provide federal advocacy outside consulting service for the forthcoming calendar year, including consultant contract management, facilitation and management of meetings and accounting. All PARTICIPATING AGENCIES shall be considered third party beneficiaries of the outside consultant contract and shall be entitled to receive all copies of consultant’s correspondence and reports. The outside consultant shall provide all required lobbying disclosure documentation for each of the PARTICIPATING AGENCIES. Each PARTICIPATING AGENCY agrees to be individually liable for its pro rata share of such consultant costs (“PARTICIPATING AGENCY OUTSIDE COSTS”) as provided in Section VI, below.

#### **IV. DETERMINATION OF PROJECTS FOR AUTHORIZATION REQUESTS**

No later than September 30 of each calendar year, PARTICIPATING AGENCIES will determine which projects will be included in the authorization requests for the following calendar year and will create a list of those projects. The list will include any recycled water project located within the nine-county Bay Area where the public agency project sponsor is a PARTICIPATING AGENCY.

#### **V. DETERMINATION OF PROJECTS FOR APPROPRIATION REQUESTS**

1. No later than September 30 of each calendar year, PARTICIPATING AGENCIES shall review the status of all AUTHORIZED PROJECTS to determine those projects that will meet both the following criteria: (1) Project has completed or is in the process of completing the Title XVI Feasibility Determination process administered by the United States Bureau of Reclamation; and (2) the funded phase of the project will be completed no later than the end of the federal fiscal year of the appropriation request (i.e. 2009 appropriation requests must be for work that will be completed by September 30, 2009); and project otherwise meets all eligibility requirements for funding under Public Law 102-575 as amended. Projects meeting these criteria will be eligible for inclusion in the list of projects for which a federal funding allocation will be sought.
2. No later than September 30 of each calendar year, PARTICIPATING AGENCIES will determine the final list of projects; the associated project cost for which a federal funding allocation will be sought through the Congressional budget process for the subsequent federal fiscal year; and the percentage share each agency would receive of the total requested appropriation. This list shall be the "Appropriation Request List.
3. Projects contemplated for federal fiscal year (FY) 2009 and FY 2010 appropriation requests are listed in Attachment 2. No later than September 30 of each year, beginning September 30, 2008, the PARTICIPATING AGENCIES will modify Attachment 2 as necessary to select projects meeting the above criteria for future year appropriations requests beginning with the calendar years 2009 and 2010 appropriation requests.

#### **VI. COST SHARING**

1. Annually commencing in 2009, PARTICIPATING AGENCIES will pay their pro rata share per project of the cost to carry out PARTICIPATING AGENCY efforts to secure federal funding through Title XVI; this shall consist of the reimbursement of BACWA Administrative and Outside Agency Costs as defined in Section III above. The pro rata cost share attributable to a project for a given year will be determined by dividing the total cost for PARTICIPATING AGENCY efforts by the total number of projects for which authorization and/or appropriation will be sought in the subsequent calendar year. A PARTICIPATING AGENCY that is unable or unwilling to pay federal advocacy costs may request that its pro rata share per project be used for other consultant or administrative costs and, if the PARTICIPATING AGENCY has a lobbyist on retainer in Washington D.C., may direct its Washington D.C. lobbyist to assist in the federal advocacy program; notwithstanding however, that each PARTICIPATING AGENCY shall pay its full pro rata share of the total cost as calculated above.
2. No later than September 30 of each calendar year, the PARTIES will determine the total cost for PARTICIPATING AGENCY efforts for the next calendar year and the pro rata cost share attributable to each project. No later than November 30 of each calendar year, each PARTICIPATING AGENCY will obtain the necessary Board/City Council approval for funding of the next year's costs for its respective project(s).

3. For calendar year 2008, the PARTICIPATING AGENCIES have entered into a separate agreement for payment of their pro rata share per project of federal advocacy costs.

## **VII. DISTRIBUTION OF FEDERAL FUNDING**

1. PARTICIPATING AGENCIES designate BACWA to serve as the legal entity to request amendments to the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992 for the authorized projects.
2. When a federal appropriation is made, in accordance with the Final Appropriation List, BACWA shall inform the United States Bureau of Reclamation (USBR) of the percentage share that each PARTICIPATING AGENCY should receive for its project(s) from the appropriation pursuant to an individual project agreement(s) between the PARTICIPATING AGENCY and USBR. Should the total amount of the federal appropriation be less than the total amount sought for all authorized projects in any given year, each PARTICIPATING AGENCY will receive its percentage share of the lower appropriation, and BACWA shall inform USBR of the percentage shares.
3. BACWA shall have no responsibility and no liability for any PARTICIPATING AGENCY'S performance of its obligations pursuant to its individual project agreement with the United States Bureau of Reclamation. Each PARTICIPATING AGENCY that receives a federal appropriation agrees to hold harmless BACWA from any and all claims, causes of action or liabilities arising from or connected to (1) the PARTICIPATING AGENCY'S acceptance and use of the federal appropriation and/or (2) the project for which the appropriation was received.
4. Neither BACWA nor the PARTICIPATING AGENCIES are required to accept the USBR proposed agreement terms. If USBR requires an agreement with BACWA, the terms of which BACWA cannot agree, BACWA's obligations under this Agreement shall terminate. If the affected PARTICIPATING AGENCIES do not enter into the USBR agreement, the affected Parties' obligations under this Agreement shall terminate.

## **VIII. DISPUTES**

The PARTIES agree to follow this dispute resolution procedure:

1. Informal Conferral. If a dispute related to the interpretation, enforcement, or compliance with the terms and provisions of this Agreement arises, the affected agencies will first attempt to resolve it through informal discussions, which will include the persons identified as Agency Contacts in Section IX below for the affected agencies. If such a dispute cannot be resolved in this matter within fifteen (15) business days, the affected agencies will endeavor to settle the dispute through negotiation.
2. Negotiation. Not more than fifteen (15) business days after the conclusion of the informal conferral, the aggrieved agency shall serve on the other affected agencies (a) written notice of the nature and basis of the dispute, including any amount of money claimed, the provisions of the Agreement at issue, and the facts in support of its position; and (b) a copy of all supporting documents. Within ten (10) business days after service of the notice, the responding agencies shall serve on the aggrieved agency (a) a written response setting out their position, including the provisions of the Agreement relied on and the facts in support thereof; and (b) a copy of all supporting documents. Within ten

(10) business days after service of the response, the affected agencies shall meet to negotiate resolution of the dispute. Each agency's negotiator shall be its general manager or city manager, executive director, or their designee.

3. After negotiation, any affected agency may pursue any available legal remedy. The written notice of the dispute and the written response and all documents produced, but not the subsequent discussion, shall be admissible in any subsequent proceeding.
4. Pending resolution of the dispute, each PARTY must fulfill its payment obligations and other responsibilities under this Agreement.

## **IX. AGENCY CONTACTS**

For each Participating Agency, a contact person is identified below. All communications regarding activities covered by this Agreement will be made to those contact persons. All notices pertaining to this Agreement will be in writing and may be delivered by deposit in the U.S. mail, postage prepaid, addressed in the case of each agency to the contact person listed below:

City of Mountain View  
Gregg Hosfeldt, Assistant Public Works Director  
500 Castro Street/ P.O. Box 7540  
Mountain View, CA 94039-7540

Delta Diablo Sanitation District  
Caroline Quinn, District Engineer  
2500 Pittsburg-Antioch Highway  
Antioch, CA 94509-1373

City of Palo Alto  
Daisy Stark, Contract Manager  
250 Hamilton Avenue  
Palo Alto, CA 94301

North Coast County Water District  
Cari Lemke, Assistant General Manager  
2400 Francisco Blvd./P.O. Box 1039  
Pacifica, CA 94044

City of Redwood City  
Roanne Ross, Whitley Burchett & Associates  
1777 Oakland Blvd. Suite 200  
Walnut Creek, CA 94596

Santa Clara Valley Water District  
Pam John, Senior Civil Engineer  
5750 Almaden Expressway  
San Jose, CA 95118

City of San Jose, South Bay Water Recycling  
Eric Rosenblum, Division Manager  
c/o City of San Jose Municipal Water System  
3025 Tuers Road  
San Jose CA 95121

Bay Area Clean Water Agencies  
Michele Pla, Executive Director  
6114 LaSalle Ave, #456  
Oakland, CA 94611-2802

## **X. AMENDMENTS**

This Agreement may be amended by a written document executed by all of the PARTIES hereto.

**XI. ENTIRE AGREEMENT**

This Agreement contains all the terms and conditions agreed upon by the PARTIES. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

**XII. TERMINATION**

This Agreement may be terminated immediately at any time by written mutual consent of all PARTIES. Upon provision of written notice of termination to all other PARTIES no later than October 31, a PARTICIPATING AGENCY may terminate its participation in this Agreement effective December 31 of the current calendar year.

**XIII. COUNTERPARTS**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same Agreement.

EXECUTED AND APPROVED ON BEHALF OF EACH AGENCY AS SIGNIFIED BY THE SIGNATURES BELOW:

PARTIES:

**Bay Area Clean Water Agencies:**

\_\_\_\_\_  
Michele Pla, Executive Director

\_\_\_\_\_  
Counsel

**City of Mountain View:**

\_\_\_\_\_  
Kevin Duggan, City Manager

\_\_\_\_\_  
Counsel

**City of Palo Alto:**

\_\_\_\_\_  
Frank Benest, City Manager

\_\_\_\_\_  
Counsel

**City of Redwood City:**

\_\_\_\_\_  
Peter Ingram, Interim City Manager

\_\_\_\_\_  
Counsel

**City of San Jose:**

\_\_\_\_\_  
Debra Figone, City Manager

\_\_\_\_\_  
Counsel

**Delta Diablo Sanitation District (DDSD):**

\_\_\_\_\_  
Gary Darling, General Manager

\_\_\_\_\_  
Counsel

**North Coast County Water District (NCCWD):**

\_\_\_\_\_  
Kevin O'Connell, General Manager

\_\_\_\_\_  
Counsel

**Santa Clara Valley Water District:**

\_\_\_\_\_  
Olga Martin-Steele, Chief Operating Officer

\_\_\_\_\_  
Counsel

Attachment 1- Membership Addendum  
Attachment 2 - Appropriation Request

**ATTACHMENT 1  
MEMBERSHIP ADDENDUM**

This Addendum to the Memorandum of Agreement for the Bay Area Recycled Water Coalition (BARWC) Federal Legislative Efforts (the "Agreement") is made on (date) \_\_\_\_\_, by the (name of agency) \_\_\_\_\_, (the "Agency") a (state legal capacity, i.e. a municipal corporation) \_\_\_\_\_ for the purpose of becoming a PARTICIPATING AGENCY as that term is defined in the Agreement. The Agreement is incorporated by reference in and made a part of this Addendum.

The Agency acknowledges that it has received a copy of the Agreement and after thorough review of the Agreement desires to become a Participating Agency under the Agreement. The Agreement contemplates the inclusion of Participating Agencies by a process of voluntary execution of this Addendum and a majority vote of the Participating Agencies to approve inclusion of the signatory as a Participating Agency.

The governing body of the Agency certifies that the Agency has a recycled water project authorized through Title XVI of the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992 or intends to actively seek congressional authorization and appropriation, for projects covered under Title XVI.

In consideration for the mutual promises set forth in the Agreement, the governing body of the Agency hereby agrees to accept and perform all duties, responsibilities and obligations required of a Participating Agency as set forth in the Agreement. Further, the governing body authorizes its \_\_\_\_\_ or his/her designee to sign all documents necessary to implement the Agreement.

The contact person and notice address for the Agency are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date \_\_\_\_\_

(Name of Agency)

By: \_\_\_\_\_

Chairperson

The Agreement and the Addendum are approved as to form:

By: \_\_\_\_\_, Attorney for PARTICIPATING AGENCY

## ATTACHMENT 2

**MEMORANDUM OF AGREEMENT  
BAY AREA RECYCLED WATER COALITION (BARWC)  
APPROPRIATION REQUEST**

ELIGIBLE PROJECT	PARTICIPATING AGENCIES	REQUESTED APPROPRIATION	
		FY 09	FY 2010
Palo Alto/Mountain View/Moffett Area Water Reuse Project	Palo Alto & Mountain View	\$5,000,000	
Pittsburg Recycled Water Project	DDSD	\$1,750,000	
Antioch Recycled Water Project	DDSD	\$2,250,000	
North Coast County Recycled Water Project (aka Pacific)	NCCWD	\$2,500,000	
Redwood City Recycled Water Project	Redwood City	\$1,100,000	
South Santa Clara County Recycled Water Project	SCVWD		\$7,000,000
South Bay Advanced Recycled Water Treatment Facility	SCVWD		\$8,250,000
San Jose Area Water Reclamation and Reuse Project	San Jose	\$8,000,000	
	<b>TOTAL</b>	<b>\$20,600,000</b>	<b>\$15,250,000</b>

**APPROPRIATION REQUEST  
PERCENT SHARES for FY 2009**

ELIGIBLE PROJECT	PARTICIPATING AGENCIES	REQUESTED APPROPRIATION	
		FY 09	Percent Share
Palo Alto/Mountain View/Moffett Area Water Reuse Project	Palo Alto & Mountain View	\$5,000,000	24.27 %
Pittsburg Recycled Water Project	DDSD	\$1,750,000	8.5%
Antioch Recycled Water Project	DDSD	\$2,250,000	10.92%
North Coast County Recycled Water Project (aka Pacifica)	NCCWD	\$2,500,000	12.14%
Redwood City Recycled Water Project	Redwood City	\$1,100,000	5.34%
San Jose Area Water Reclamation and Reuse Project	San Jose	\$8,000,000	38.83%
	<b>TOTAL</b>	<b>\$20,600,000</b>	<b>100%</b>