

AGENDA ITEM NO.	1B
COUNCIL MEETING	11/08/12
APPROVED BY	
DEPARTMENT DIRECTOR	
CITY MANAGER 	

November 8, 2012

**FROM:** PATRICK N. WIEMILLER, Director  
Department of Public Utilities

**BY:** STEPHEN A. HOGG, Assistant Director   
Department of Public Utilities – Wastewater Management Division

**SUBJECT:** AUTHORIZE THE CITY MANAGER OR HIS DESIGNEE TO NEGOTIATE AND ENTER INTO AN AGREEMENT FOR PARTICIPATION IN A COALITION OF AGENCIES CURRENTLY REFERRED TO AS THE BAY AREA RECYCLED WATER COALITION SEEKING FUNDING FOR THE DEVELOPMENT AND CONSTRUCTION OF RECYCLED WATER PROJECTS

**RECOMMENDATION**

Staff recommends the City Council authorize the City Manager or his designee to negotiate and enter into an agreement for participation in a coalition of agencies currently referred to as the Bay Area Recycled Water Coalition (BARWC or Coalition) for the purpose of seeking funding for the development and construction of recycled water projects.

**EXECUTIVE SUMMARY**

A number of agencies in the San Francisco Bay Area executed a Memorandum of Agreement (MOA) for the formation of the BARWC. The purpose of the BARWC is to collaborate and seeking funding for development and construction of recycled water projects. This includes the efforts to promote legislation authorizing and appropriating federal funding for recycled water projects through the Bureau of Reclamation Title XVI Program. It is recognized that expanding the Coalition beyond the Bay Area is likely to bring additional support for recycled water projects and the associated funding opportunities. The Central San Joaquin is a logical area into which to expand the Coalition and the City of Fresno has been invited to participate. The cost of participation in the Coalition is each agency's share of advocacy and administrative costs which is determined annually and expected to be in the range of \$8,500-\$10,000 per project, depending upon the total project cost and number of projects. Staff recommends the Council authorize the City Manager or his designee to negotiate and enter into an agreement for participation in a Coalition.

**BACKGROUND**

Water is a vital, but limited resource. The reliability of the supply in California is impacted by a number of factors such as over-allocation, court-ordered restrictions on Delta water withdrawals, and anticipated climate change impacts. Recycled water projects from urban wastewater provide reliable long-term sustainable and drought tolerant supplies. Reusing water helps improve reliability and preserve limited surface and groundwater supplies.

On August 25, 2008, an MOA was executed by and between eight agencies in the San Francisco Bay Area for the formation of the BARWC. Subsequently the MOA was amended to include an additional nine agencies. The purpose of the BARWC is to collaborate and seeking funding for the development and construction of recycled water projects. This includes the efforts to promote legislation authorizing and appropriating federal funding for recycled water projects through the Bureau of Reclamation Title XVI program. Through Coalition efforts, participating agencies have received over \$40 million in federal funding over the past four years for recycled water projects. It is recognized that expanding the Coalition beyond the Bay Area is likely to bring additional support for recycled water projects and the associated funding opportunities. The Central San Joaquin is a logical area into which to expand the Coalition and the City of Fresno has been invited to participate. The name of the BARWC and MOA will be changed to allow and encourage the participation of agencies in the area represented by the Bureau of Reclamation's Mid-Pacific Region rather than just the Bay area.

A copy of the current MOA is attached for reference purposes only. The name of the Coalition will be changed and the MOA amended to allow the participation by agencies in the Mid-Pacific Region, beyond the Bay Area, including the City of Fresno.

#### **FISCAL IMPACT**

The cost of participation in the Coalition is each agency's share of advocacy and administrative costs which is determined annually and expected to be in the range of \$8,500-\$10,000 per project, depending upon the total project cost and number of projects. However, if congressional authorization and appropriation is secured, Title XVI will provide fifty percent of the funding to prepare Feasibility Studies and environmental reports and twenty-five percent of the construction cost of recycled water projects.

**FIRST AMENDED AND RESTATED  
MEMORANDUM OF AGREEMENT  
BAY AREA RECYCLED WATER COALITION  
FEDERAL LEGISLATIVE EFFORTS**

A Memorandum of Agreement was originally made and executed on August 25<sup>th</sup>, 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 ("BACWA"), a joint powers agency formed pursuant to California Government Code section 6500 et seq.

Subsequent to the execution of the Memorandum of Agreement, the following entities became parties to the Memorandum of Agreement as Participating Agencies: the Central Contra Costa Sanitary District, a Special District formed under the Sanitary District Act pursuant to Health and Safety Code Section 6400, et seq.; the Dublin San Ramon Services District, a Special District formed under the Community Services District Law, California Government Code Section 61000, et. seq.; the City of Petaluma, a Municipal Corporation; the Ironhouse Sanitary District, a Special District; the Coastside County Water District, a Special District; the City of Hayward, a Municipal Corporation; Zone 7 of the Alameda County Flood Control & Water Conservation District, a component of Alameda County; the Town of Yountville, a Municipal Corporation; and the City of Pleasanton, a Municipal Corporation.

The Participating Agencies (including those agencies that become Participating Agencies after the execution of the August 25, 2008 Memorandum of Agreement) and BACWA now desire to amend and restate the August 25, 2008 Memorandum of Agreement effective June 30, 2011 by entering into this First Amended and Restated Memorandum of Agreement ("Restated Agreement"), which creates a new category of parties to this Restated Agreement called Associate Participants ; allows investor owned water utilities regulated by the California Public Utilities Commission to become Participating Agencies and/or Associate Participants; shares costs for the Lead Agency's administrative expenses incurred to provide services for BARWC; and revises the cost sharing formula for Participating Agency costs for federal advocacy.

It is the intent of the Parties that this Restated Agreement replaces the Memorandum of Agreement that was originally made and executed on August 25, 2008.

**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

## **I. DEFINITIONS**

1. **Associate Participant:** A public agency or an Investor Owned Water Utility regulated by the California Public Utilities Commission that both: (i) does not have a recycled water project for which they are seeking congressional authorization and/or appropriation, but which wishes to monitor BARWC's efforts to promote legislation to appropriate federal funding for recycled water projects authorized through Title XVI of the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992; and (ii) is approved as an Associate Participant pursuant to Section II(2) of this Restated Agreement. Associate Participants may participate in BARWC discussions regarding federal funding efforts to be pursued under this Restated Agreement, but may not vote, or otherwise participate in any decision-making, including the efforts to be undertaken under this Restated Agreement or any other matter.
2. **Authorized Project:** A project that has been enacted into federal law.
3. **Federal Share:** The dollar amount of Federal Title XVI funding that a Participating Agency is seeking for their project(s). In general, the Federal Share is 25% of the estimated total cost of a project for which a Participating Agency is seeking authorization and/or appropriation. However, an Authorized Project may have a remaining Federal Share that is less than 25% of the total project cost if it has previously received Federal appropriations.
4. **Lead Agency:** The Participating Agency selected by majority vote of the Participating Agencies to provide federal advocacy outside consulting services, including consultant contract management, facilitation and management of meetings, and accounting services.
5. **Participating Agency:** Each of the agencies that is a Participating Agency as of the effective date of this Restated Agreement. A Participating Agency also includes a public agency or Investor-Owned Water Utility regulated by the California Public Utilities Commission that both: (i) has a recycled water project(s) authorized through Title XVI of the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992 or that will seek congressional authorization and appropriation for such projects; and (ii) is approved as a Participating Agency pursuant to Section II(1) of this Restated Agreement.
6. **Parties:** BACWA and all current and future Participating Agencies and Associate Participants.

## **II. ELIGIBILITY TO BECOME A PARTY TO THIS RESTATED AGREEMENT**

1. Any public agency or Investor Owned Water Utility regulated by the California Public Utilities Commission 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 status by a majority of the Participating Agencies and execution of the Participating Agency 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.
2. Any public agency or Investor Owned Water Utility regulated by the California Public Utilities Commission in the nine-county Bay Area that has the ability to develop a recycled water project can become an Associate Participant upon approval of such status by a majority of the Participating Agencies and execution of the Associate Participant Addendum, attached hereto as

Attachment 2. Any Addendum must be approved on or before September 30 in order to be effective for the forthcoming calendar year.

3. A Participating Agency or an Associate Participant can convert to a different party status upon approval of such change in status by a majority of the Participating Agencies and execution of a Change of Party Status Addendum, attached hereto as Attachment 3. 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 Participating Agencies hereby agree that either Bay Area Clean Water Agencies (BACWA), or the Lead Agency may 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 may act as the regional entity on behalf of Participating Agencies.
2. The Participating Agencies agree that either BACWA or the Lead Agency may be listed as the entity submitting the authorization and appropriation requests to members of Congress and that either BACWA or Lead Agency 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. If the Participating Agencies vote to request that BACWA perform these functions and BACWA agrees to do so and incurs costs for these functions, the Participating Agencies will reimburse BACWA for these costs. Any documents BACWA or the Lead Agency requests from a Participating Agency to support its legislative role will be prepared by the respective Participating Agency at its own expense.
3. The Participating Agencies agree that all appropriations requests pursuant to this Restated 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 Restated Agreement, in accordance with the distribution formula set forth in Section VII below. Any agreement required by USBR shall be 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. Neither BACWA nor the Lead Agency shall have responsibility for provision of any of these services.
5. All recycled water projects for which federal participation is sought by the Participating Agencies through Title XVI that meet the terms of this Restated 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 1 of each calendar year, the Participating Agencies will select from among themselves one Lead Agency to provide federal advocacy outside consulting service for the forthcoming calendar year, including consultant contract management, facilitation and management of meetings and accounting. The Lead Agency will bill the Parties for the costs it incurs for these activities ("Lead Agency Administrative Costs"). Each Participating Agency and each Associate Participant agrees to be individually liable for its pro rata share of the Lead Agency's Administrative Costs as provided in Section VI below. 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 share of such consultant costs ("Advocacy Costs") as provided in Section VI, below.

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

No later than October 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 may include any recycled water project located within the nine-county Bay Area where the project sponsor is a Participating Agency.

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

1. No later than October 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. 2011 appropriation requests must be for work that will be completed by September 30, 2011); 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 October 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".

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

1. Participating Agencies will pay their pro rata share of Lead Agency Administrative Costs and their share of Advocacy Costs, as defined in Section III (7). Associate Participants will pay their pro-rata share of Lead Agency Administrative Costs only. The Lead Agency will bill the costs to the Participating Agencies and Associate Participants on an annual basis. Payment is due within thirty days of the date of the bill.

2. No later than September 30 of each calendar year, the Lead Agency will submit a budget for Lead Agency Administrative Costs for the next calendar year. No later than October 30 of each calendar year, representatives of the Participating Agencies will approve the final budget amount for these administrative costs. They will then determine the pro rata Lead Agency Administrative cost share for each Participating Agency and each Associate Participant for the next calendar year. The pro rata cost share will be determined by equally dividing the annual budgeted Lead Agency Administrative Costs by the number of Participating Agencies plus one-half of the total number of Associate Participants. Each Participating Agency will pay a full pro rata share, and each Associate Participant will pay one-half of a full pro rata share.
3. No later than October 30 of each year, Participating Agencies will identify each agency's Federal Share for the next calendar year and determine the monetary sum of the Federal Shares for all Participating Agencies for that year.
4. No later than October 30 of each year, Participating Agencies will approve the total amounts to be spent on Advocacy Costs for the next calendar year. They will then determine the Advocacy Cost share attributable to a Participating Agency for that calendar year. The Advocacy Cost share will be determined by multiplying the total approved Advocacy Cost amount by a Participating Agency's Federal Share and then dividing by the sum of the Federal Share for all Participating Agencies. Once the Advocacy Cost share for each Participating Agency for the next calendar year has been determined, a Participating Agency's Advocacy Cost share will not be changed for that calendar year, even if the agency otherwise adjusts its Federal Share.
5. No later than November 30 of each year, each Participating Agency will obtain the necessary Board/City Council approval for funding of the next calendar year's Advocacy Costs and Lead Agency Administrative Costs. No later than November 30 of each year, each Associate Participant will obtain the necessary Board/City Council approval for funding of the next year's Lead Agency Administrative Costs.
6. A Party that terminates its participation in this Restated Agreement will not receive any refund of its payments for either Lead Agency Administrative Costs or Advocacy Costs. A Participating Agency that is not eligible for federal funding under Title XVI of the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992 will not receive any refund of its payments for either Lead Agency Administrative Costs or Advocacy Costs.

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

1. Participating Agencies may designate BACWA or the Lead Agency 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 Appropriation Request List, either the Lead Agency or BACWA shall inform the 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 the Lead Agency or BACWA shall inform USBR of the percentage shares.

3. Neither the Lead Agency nor BACWA shall have any responsibility or liability for any other 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 the Lead Agency and 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 Restated Agreement shall terminate. If the affected Participating Agencies do not enter into the USBR agreement, the affected Parties' obligations under this Restated 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 Restated Agreement arises, the affected Parties will first attempt to resolve it through informal discussions, which will include the persons identified as Entity Contacts in Section IX below for the affected Parties. If such a dispute cannot be resolved in this matter within fifteen (15) business days, the affected Parties 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 Party shall serve on the other affected Parties (a) written notice of the nature and basis of the dispute, including any amount of money claimed, the provisions of this Restated 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 Parties shall serve on the aggrieved Party (a) a written response setting out their position, including the provisions of the Restated 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 Parties shall meet to negotiate resolution of the dispute. Each Party's negotiator shall be its general manager or city manager, executive director, or their designee.
3. After negotiation, any affected Party 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 Restated Agreement.

## IX. ENTITY CONTACTS

For each Participating Agency, each Associate Participant, and BACWA, a contact person is identified below. All communications regarding activities covered by this Restated Agreement will be made to those contact persons. All notices pertaining to this Restated Agreement will be in writing and may be delivered by deposit in the U.S. mail, postage prepaid, addressed in the case of each entity to the contact person. Upon written notice of the change of an Entity's contact person, the Lead Agency may

update the list of entity contacts and circulate a copy of the list to all Parties. Contact persons of the Parties as of June 30, 2011 are:

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  
Ronne Ross, Whitley Burchett & Associates  
1777 Oakland Blvd. Suite 200  
Walnut Creek, CA 94596

Santa Clara Valley Water District  
Alan Kurotori, Deputy Operating Officer  
5750 Almaden Expressway  
San Jose, CA 95118

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

Bay Area Clean Water Agencies  
Amy Chastain, Executive Director  
P.O. Box 24055, MS702  
Oakland, CA 94623

Central Contra Costa Sanitary District  
Don Berger, Recycled Water Program Manager  
5019 Imhoff Place  
Martinez, CA 94553

Dublin San Ramon Services District  
Rhodora Biagtan, Principal Engineer  
7051 Dublin Boulevard  
Dublin, CA 94568

City of Hayward  
Alex Ameri, Deputy Director of Public Works  
777 B Street  
Hayward, CA 94541

Ironhouse Sanitary District  
Tom Williams, General Manager  
450 Walnut Meadows Dr.  
Oakley, CA 94561

Town of Yountville  
Graham Wadsworth, Public Works Director  
6550 Yount Street  
Yountville, CA 94599

City of Petaluma  
Remleh Scherzinger,  
P.O. Box 61  
Petaluma, CA 95953

City of Pleasanton  
Daniel Smith  
P.O. Box 520  
Pleasanton, CA 94566

Coastside County Water District  
David Dickson, General Manager  
766 Main Street  
Half Moon Bay, CA 94019

Zone 7 Water Agency  
Amparo Flores  
100 North Canyons Parkway  
Livermore, CA 94551-9486

**X. AMENDMENTS**

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

**XI. ENTIRE AGREEMENT**

This Restated 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 Restated Agreement shall be deemed to exist or to bind all of the Parties hereto.

**XII. TERMINATION**

This Restated Agreement may be terminated immediately at any time by written mutual consent of all the Parties. Upon provision of written notice of termination to all other Parties no later than October 15, and full payment of any amounts it owes under this Restated Agreement, a Participating Agency or an Associate Participant may terminate its participation in this Restated Agreement effective December 31 of the then-current calendar year.

**XIII. COUNTERPARTS**

This Restated 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 PARTY AS SIGNIFIED BY THE SIGNATURES BELOW:

PARTIES:

**Bay Area Clean Water Agencies:**

\_\_\_\_\_

Amy Chastain, Executive Director

**City of Mountain View:**

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City Manager

**City of Palo Alto:**

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James Keene, City Manager

**City of Redwood City:**

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Robert Bell, City Manager

**City of San Jose:**

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Debra Figone, City Manager

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

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Gary W. Darling, General Manager

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

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Kevin O'Connell, General Manager

**Santa Clara Valley Water District:**

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Beau Goldie, Chief Executive Officer

**Central Contra Costa Sanitary District:**

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James M. Kelly, General Manager

**Dublin San Ramon Services District:**

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Bert Michalczyk, General Manager

**Ironhouse Sanitary District:**

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Thomas Williams, General Manager

**City of Petaluma:**

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John C. Brown, City Manager

**City of Hayward:**

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Frances David, City Manager

**City Pleasanton:**

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**Nelson Fialho, City Manager**

**Town of Yountville**

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Steven Rogers , Town Manager

**Coastside County Water District:**

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David Dickson, General Manager

**Zone 7 Water Agency:**

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G.F. (Jill) Duerig, General Manager

Attachment 1 - Participating Agency Addendum  
Attachment 2 - Associate Participant Addendum  
Attachment 3 - Change of Party Status Addendum

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**ATTACHMENT 1**  
**PARTICIPATING AGENCY ADDENDUM**

This Addendum to the First Amended and Restated Memorandum of Agreement for the Bay Area Recycled Water Coalition (BARWC) Federal Legislative Efforts (the "Restated Agreement") is made on (date) \_\_\_\_\_, by the (name of entity) \_\_\_\_\_, (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 Restated Agreement. The Restated Agreement is incorporated by reference in and made a part of this Addendum.

The Agency acknowledges that it has received a copy of the Restated Agreement and after thorough review of the Restated Agreement desires to become a Participating Agency under the Restated Agreement. The Restated 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 Restated 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 Restated Agreement. Further, the governing body authorizes its \_\_\_\_\_ or his/her designee to sign all documents necessary to implement the Restated Agreement.

The contact person and notice address for the Agency are:

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

Date \_\_\_\_\_

(Name of Agency)

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

Chairperson

The Restated Agreement and the Addendum are approved as to form:

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

**ATTACHMENT 2**

**ASSOCIATE PARTICIPANT ADDENDUM**

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

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

The governing body of the Agency certifies that the Agency does not intend to actively seek congressional authorization and appropriation for projects covered under Title XVI. However, the Agency would like to participate in BARWC.

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

The contact person and notice address for the Agency are:

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

Date \_\_\_\_\_

(Name of Agency)

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

Chairperson

The Restated Agreement and the Addendum are approved as to form:

By: \_\_\_\_\_, Attorney for Associate Participant

**ATTACHMENT 3  
CHANGE OF PARTY STATUS ADDENDUM**

This First Amended and Restated Addendum to the Memorandum of Agreement for the Bay Area Recycled Water Coalition (BARWC) Federal Legislative Efforts (the "Restated Agreement") is made on (date) \_\_\_\_\_, by the (name of entity) \_\_\_\_\_, (the "Agency") a (state legal capacity, i.e. a municipal corporation) \_\_\_\_\_ for the purpose of becoming a (specify new status e.g., Participating Agency or Associate Participant) as that term is defined in the Restated Agreement. The Restated Agreement is incorporated by reference in and made a part of this Addendum.

The Agency acknowledges that it has received a copy of the Restated Agreement and after thorough review of the Restated Agreement desires to change its party status from (specify current status, e.g., Participating Agency or Associate Participant) to (specify new status, e.g., Participating Agency or Associate Participant) under the Restated Agreement. The Restated Agreement contemplates the modification of party status by a process of voluntary execution of this Addendum and a majority vote of the Participating Agencies to approve modification of the signatory's party status.

[If new status is Participating Agency, include the following paragraph] 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.

[If new status is Associate Participant, include the following paragraph] The governing body of the Agency certifies that the Agency does not intend to actively seek congressional authorization and appropriation, for projects covered under Title XVI. However, the Agency would like to participate in BARWC.

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

The contact person and notice address for the Agency are:

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

Date \_\_\_\_\_

(Name of Agency)

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

Chairperson

The Restated Agreement and the Addendum are approved as to form:

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

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 ("USBR") 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, Senate Bill 2739 was signed into Public Law 110-229 on May 8, 2008; and
14. WHEREAS, Participating Agencies desire to continue efforts to obtain necessary legislation authorizing federal funding for Bay Area recycled water projects; and
15. 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 BENEFITS, COVENANTS AND PROMISES CONTAINED HEREIN, THE PARTIES DO HEREBY AGREE AS FOLLOWS: