

RESOLUTION NO. 2011-310

Adopted by the Sacramento City Council

May 31, 2011

APPROVAL OF THE REGIONAL WATER AUTHORITY INTERAGENCY AGREEMENT FOR PARTICIPATION IN PROPOSITION 84 IMPLEMENTATION GRANT APPLICATION PROJECT

BACKGROUND

- A. The Regional Water Authority (RWA) is the lead agency in preparing a grant application to receive Proposition 84 funds for local qualifying projects from Integrated Regional Water Management Planning (IRWMP) efforts. Several agencies and non-governmental agencies are participating.
- B. The City-County Office of Metropolitan Water Planning (CCOWMP), on behalf of the Water Forum, has worked to seek inclusion of the Lower American River Mile 0.5 Aquatic Riparian Habitat Enhancement Project into the RWA IRWM grant request. The Project is consistent with the collaborative nature of the IRWM process and illustrates shared interests in lower American River issues.
- C. An interagency agreement between the City of Sacramento, on behalf of the CCOMWP, and the Regional Water Authority has been prepared to fund the CCOMWP's proportional share of costs associated with including the Lower American River Mile 0.5 Aquatic Riparian Habitat Enhancement Project into the RWA IRWM grant request.
- D. The CCOMWP cost share is \$10,503, which is available in Fund 7104 for the Habitat Management Element.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Manager is authorized to execute an agreement with the RWA for the purpose of sharing costs associated with grant application preparation and project management for Proposition 84 funding.
- Section 2. Exhibit A is part of this Resolution.

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- Exhibit A. Interagency Agreement

Report Title

Unexecuted Contract/Agreements

- The Unexecuted Contract/Agreement is signed by the other party, is attached as an exhibit to the resolution, and is approved as to form by the City Attorney.
- The Unexecuted Contract/Agreement (Public Project) is NOT signed by the other party, is attached as an exhibit to the resolution, and is approved as to form by the City Attorney.
- The Unexecuted Contract is NOT included as an exhibit to the Resolution because the Agreement(s) is with other another governmental agency and it is not feasible to obtain the other agency's signature prior to Council action (be they denominated Agreements, MOUs, MOAs, etc.); however, the City Attorney approves the forwarding of the report to Council even though the signed agreement is not in hand yet.
- The Unexecuted Contract is NOT included as an exhibit to the resolution because, due to special circumstances, and the City Attorney confirms in writing that it is okay to proceed with Council action even though the signed agreement is not in hand yet.

All unexecuted contracts/agreements which are signed by the other parties are in the Office of the City Clerk before agenda publication.

**AGREEMENT BETWEEN REGIONAL WATER AUTHORITY
AND CITY OF SACRAMENTO, ON BEHALF OF THE CITY-COUNTY OFFICE OF
METROPOLITAN WATER PLANNING, FOR PARTICIPATION IN
PROPOSITION 84 IMPLEMENTATION GRANT APPLICATION PROJECT**

This Agreement is made and entered into as of the ___ day of _____, 2011, by and between the Regional Water Authority ("RWA"), a joint exercise of powers authority formed under California Government Code section 6500, and following, and the City of Sacramento ("City"), on behalf of the City-County Office of Metropolitan Water Planning ("CCOMWP"), to provide for CCOMWP's participation in carrying out the project described in this Agreement.

RECITALS

A. RWA is a joint powers authority, formed to serve and represent regional water supply interests and to assist its members in protecting and enhancing the reliability, availability, affordability and quality of water resources.

B. RWA developed and is updating an Integrated Regional Water Management Plan ("IRWMP") for the lower American River Basin to identify objectives and projects that will result in water supplies for all uses in a sustainable environment.

C. The California Department of Water Resources has released the initial round of grant application funding from Proposition 84 to fund priority projects from IRWMP efforts throughout the State and RWA and certain of its members and contracting entities ("Participants") intend to submit an application for such funding (the "Project").

D. RWA and the Participants desire to include entities that are not affiliated with RWA in the Project in order to ensure that the RWA application contains the broadest possible scope of projects and benefits within the region covered by the IRWMP. RWA and the Participants recognize that some entities that may be invited or request to submit projects for the grant funding application may not have the ability to pay some or all of their share of Project expenses, and that this inability to pay should not affect the inclusion of such projects.

E. CCOMWP desires to participate in the Project, subject to the terms and conditions set forth in this Agreement. CCOMWP has worked to seek inclusion of the Lower American River Mile 0.5 Aquatic Riparian Habitat Enhancement Project into the RWA IRWM grant request. The Project is consistent with the collaborative nature of the IRWM process and illustrates our shared interest in lower American River issues.

In consideration of the promises, terms, conditions and covenants contained herein, RWA and City, on behalf of the CCOMWP, hereby agree as follows:

1. **Recitals Incorporated.** The foregoing recitals are hereby incorporated by reference.
2. **Description of the Project.** The Project involves funding RWA's preparation and filing of an application to the California Department of Water Resources ("DWR") for a grant under the Safe

Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 ("Prop 84"), to fund certain projects in the IRWMP. RWA filed this application on [redacted]. This Project is limited in scope to the preparation and filing of the application for funding. If successful, implementation and management of the grant award would be subject to a separate agreement.

3. Project Committee. RWA and Participants have formed a Project Committee consisting of one representative and one or more alternates designated by each Participant. The Project Committee will appoint a Chair and Vice-Chair from among its voting members. The Project Committee will meet as necessary from time to time to administer and implement this Agreement on behalf of the Participants and participating non-affiliated entities. A majority of the members of the Project Committee will constitute a quorum, and a majority of the members of the Project Committee will be required for an affirmative vote to take action on behalf of the Participants. For purposes of this Project only, CCOMWP will have the right to designate one representative and one or more alternates to participate in the Project Committee as a non-voting member. CCOMWP's participation at meetings will not be counted for purposes of calculating a quorum for voting.

4. Sharing in Project Costs. Project costs will consist of a total not-to-exceed budget of \$235,000 for the application to be prepared and filed under this Agreement. This amount includes consulting expenses for RMC Water and Environment ("RMC") and RWA application preparation and project management expenses (see Section 6). CCOMWP's cost-share under this Agreement is \$10,503.00

5. Role of CCOMWP. In addition to any other obligation provided under this Agreement, CCOMWP will timely respond to all requests for information from RWA and its consultants, promptly sign and deliver all necessary documents, promptly pay the cost share specified in Section 4 of this Agreement upon receipt of RWA's invoice, and take all other actions necessary to assist RWA, the Participants and all other participating non-affiliated entities in administering and carrying out the Project. As described in Section 2 above, this Agreement covers only the grant application. If successful, a new project agreement would be developed for implementation and management of the grant. However, CCOMWP acknowledges that it is aware of provisions that DWR would require in awarding funds. The currently known provisions are listed in Exhibit 1 of this Agreement. RWA will inform CCOMWP of any additional provisions required by DWR when known.

6. Role of RWA. The Executive Director of RWA will: (a) ensure that the interests of Members and Contracting Entities of RWA who do not participate in this Project are not adversely affected in performing this Agreement, (b) provide information to CCOMWP on the status of implementation of the Project, (c) assist the Project Committee in carrying out its activities under this Agreement, and (d) administer the grant application process on behalf of CCOMWP consistent with the determinations of the Project Committee and the provisions of this Agreement.

7. RWA Project Management Expenses. The total not-to-exceed amount of \$235,000 (including legal fees, consultant fees, data collection and retrieval, report preparation, project management, project audits, and other activities necessary to complete the project) to prepare and submit the grant application to DWR is based on a cost estimate developed by RMC and is included as Exhibit 2 and the cost estimate for RWA staff's work on preparing the application and managing the Project is included as Exhibit 3. The project management expenses will be subject to revision by the Project

Committee if actual management costs are greater or less than the original estimate, provided that CCOMWP will not be responsible for paying any increased costs and will not receive any refund if actual costs are less than estimated costs.

8. Term. This Agreement will remain in effect until June 30, 2011, or will terminate on any earlier date when all obligations under this Agreement have been performed.

9. Third Party Beneficiaries. It is expressly understood and agreed by CCOMWP that the Participants and any other participating non-affiliated entities are intended to be third party beneficiaries under this Agreement solely for purposes of the Project. This provision is intended to apply solely to the Project and does not create any third party beneficiaries other than as provided herein.

10. General Provisions. Any notice to be given under this Agreement may be made by: (a) depositing in any United States Post Office, postage prepaid, and shall be deemed received at the expiration of 72 hours after its deposit; (b) transmission by facsimile copy; (c) transmission by electronic mail; or (d) personal delivery. This Agreement shall be governed by the laws of the State of California. This Agreement may be executed by the parties in counterpart, each of which when executed and delivered shall be an original and all of which together will constitute one and the same document.

The foregoing Agreement is hereby approved by the RWA and City, on behalf of the CCOMWP, and executed on the date first written above by the authorized representatives of the parties.

CITY OF SACRAMENTO
A Municipal Corporation

REGIONAL WATER AUTHORITY:
A Joint Powers Authority

By: _____

Federal I.D. No.

Print name: _____

_____ State I.D. No.

Title: _____

For: William Edgar, Interim City Manager

_____ City of Sacramento Business Op. Tax Cert. No.

APPROVED TO AS FORM:

_____ Signature of Authorized Person

_____ City Attorney

_____ John K. Woodling, Executive Director

ATTEST:

_____ City Clerk

Attachment 1 -
Currently Known Provisions Required in a
DWR Grant Funding Agreement

DRAFT 4-7-11

Attachment 1

Currently Known Provisions Required in a DWR Grant Funding Agreement

Labor Code Compliance

Public Resources Code §75075 requires the body awarding a contract for a public works project financed in any part with funds made available by Proposition 84 to adopt and enforce a labor compliance program pursuant to Labor Code §1771.5(b). Compliance with applicable laws, including California Labor Code provisions, will become an obligation of the grant recipient and sub-recipients (i.e., individual project proponents that will receive grant funds) under the terms of the grant agreement between the grant recipient and the granting agency. Labor Code §1771.8 states that the grant recipient's Labor Compliance Program must be in place at the time of awarding of a contract for a public works project by the grant recipient. Before submitting an application, applicants are urged to seek legal counsel regarding California Labor Code compliance.

CEQA Compliance

Water Code §79506 requires that activities funded under the IRWM grant program regardless of funding source must be in compliance with the California Environmental Quality Act (CEQA) (Public Resources Code §21000 *et seq.*). See Appendix A for web links to CEQA information and the State Clearinghouse Handbook.

Applicants seeking Proposition 84 funding should note that Public Resources Code §75102 requires lead agencies to notify tribal entities prior to adoption of Negative Declarations or Environmental Impact Reports (EIRs), if traditional tribal lands are within the area of the proposed project.

Monitoring Requirements

Projects that affect water quality shall include a monitoring component that allows the integration of data into Statewide monitoring efforts, including, but not limited to the SWRCB's Surface Water Ambient Monitoring Program (SWAMP).

Fiscal Statements

The Grantee must submit copies of the most recent three years of audited financial statements, for each agency or organization proposed to receive grant funding for a selected Proposal. The submittal must also include: 1) balance sheets, statements of sources of income and uses of funds, a summary description of existing debts including bonds, and the most recent annual budget; 2) separate details for the water enterprise fund, if applicable to an agency or organization; 3) a list of all cash reserves, restricted and unrestricted, and any planned uses of those reserves; and 4) any loans required for project funding and a description of the repayment method of any such loans. Equivalent documentation may be considered at DWR's discretion.

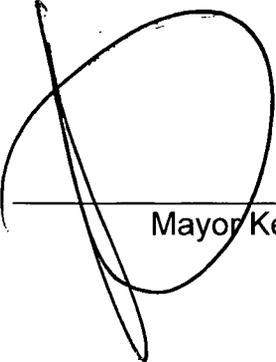
Adopted by the City of Sacramento City Council on May 31, 2011 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.



Mayor Kevin Johnson

Attest:



Shirley Corcolino, City Clerk