

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

612B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
August 16, 2011

SUBJECT: Interagency Cost Sharing: Temescal Groundwater Basin – Recharge Master Plan

RECOMMENDED MOTION:

Approve the District's financial contribution toward the Temescal Groundwater Basin – Recharge Master Plan by authorizing a contribution toward the project not to exceed \$77,000.

BACKGROUND:

The City of Corona (City) proposes to enter into an agreement with Wildermuth Environmental, Inc. to prepare a Groundwater Recharge Master Plan for the Temescal Groundwater Basin. The agreement sets forth the terms and conditions by which the District will contribute funding for development of the Master Plan together with the City and Western Municipal Water District.

MHW:blj

Steve Thomas
FOR **WARREN D. WILLIAMS**
General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. District Cost:	\$77,000	In Current Year Budget:	Y
	Current F.Y. County Cost:	N/A	Budget Adjustment:	N
	Annual Net District Cost:	\$0	For Fiscal Year:	11-12

SOURCE OF FUNDS: 25120 94720 536200 – Contributions to Non-County Agency	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
BY: *Alex Gann*
Alex Gann

County Executive Office Signature

FISCAL PROCEDURES APPROVED
IVAN M. CHANG, FINANCE DIRECTOR
Ivan M. Chang
DATE: 8/15/2011

FORM APPROVED BY COUNTY COUNSEL
BY: *Natalie Kipnis*
DATE: 8/22/11
Departmental Concurrence

- Dep't Recomm.: Consent Policy
- Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.:

District: 1, 2
ATTACHMENTS FILED WITH THE CLERK OF THE BOARD
Agenda Number:

11.4

1 recharge project or series of recharge projects will meet the Parties' individual water resource
2 goals. The information developed from the Recharge Master Plan will assist each Party in
3 making informed decisions, regarding prioritization and timing, for investments in artificial
4 recharge.

5 WEI will prepare a draft Recharge Master Plan for the Temescal Basin that compiles the task
6 reports into one comprehensive document. The draft Recharge Master Plan report will be
7 submitted to the stakeholders for their review and comments. Comments from the stakeholders
8 will be addressed and a final Recharge Master Plan report will be published. Ten printed copies
9 of the final Recharge Master Plan report (four (4) for the City, three (3) for the Flood Control
10 District, and three (3) for Western) will be provided along with an electronic PDF copy.

12 D. The Recharge Master Plan reflects an effort to pursue an integrated watershed
13 approach to water resources planning, and a necessary first step toward developing a
14 conjunctive-use program in the Basin. In addition, the findings and documentation from the
15 Recharge Master Plan could be utilized in order to pursue grant funding or low-interest loans
16 from the State of California to design and implement artificial recharge projects that will be
17 recommended as part of the Recharge Master Plan.

19 NOW, THEREFORE, in consideration of the mutual covenants, promises, and
20 conditions set forth in this Agreement, and for other good, valuable, and adequate consideration,
21 the Parties hereto agree as follows:

- 22
- 23 1. Cost of Recharge Master Plan - City has entered into, or intends to enter into, a
24 consulting services agreement with WEI ("Consultant Agreement") for preparation
25 of the Recharge Master Plan with a not-to-exceed cost of \$179,000
26 ("Compensation").
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2 2. Cost Sharing Between the Parties

3 (a) Western, Flood Control District and City shall each be responsible for payment
4 of the periodic and final payment requests under the Consultant Agreement to WEI
5 as follows. Upon receipt by City of each written statement from WEI regarding the
6 amount due and owing for the applicable time period ("Progress Payment"), City
7 shall be responsible for payment of the applicable Progress Payment and the final
8 Progress Payment to WEI for the total amount of the Compensation. City shall
9 determine in its discretion whether to submit periodic statements to Flood Control
10 District and Western or a one-time final statement to said Parties which sets forth the
11 cost sharing amounts, or portions of the cost sharing amounts, set forth herein. Flood
12 Control District and Western shall be responsible for payment to City as follows:

13 (i) Western's share of the Compensation shall equal fourteen percent (14%) of
14 the Compensation, but shall not exceed \$25,000.

15 (ii) Flood Control District's share of the Compensation shall equal forty-three
16 percent (43%), but shall not exceed \$77,000.

17 (b) Neither Western nor Flood Control District shall be responsible for payment of
18 any amounts in excess of their respective shares, as set forth herein, without the prior written
19 consent of the Party being requested to pay such additional amount.

20 (c) The Parties hereby acknowledge and agree that only City will have a contractual
21 arrangement with WEI and City shall be solely responsible for i) payment of any compensation
22 due to WEI and ii) managing WEI's performance pursuant to the Consultant Agreement between
23 WEI and City.

24 (d) City shall provide a copy of all Progress Payments to Western and Flood Control
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1 District along with a cover letter setting forth the calculation of the applicable amounts due and
2 owing by Western and Flood Control District. Within thirty (30) days of the date of said cover
3 letter, Western and Flood Control District shall submit payment to City for their respective
4 shares as set forth in this Agreement. If Western or Flood Control District object to any portion
5 of the statement or calculation, said Party shall provide written notice to City of said objections
6 within ten (10) days from the date of the City cover letter and said Parties shall then engage in
7 good faith efforts to resolve such issues through informal discussions. In the event Western or
8 Flood Control District does not submit such an objection to City within said 10-day period, said
9 Parties will be deemed to have approved said statement. In regard to any objection regarding
10 the services performed by Consultant, the applicable Party shall raise said issues with City and
11 City shall seek to resolve said issues with Consultant.

13 3. Effective Date - This Agreement shall be effective on the date of full execution of
14 this Agreement by all parties ("Effective Date").

16 4. Term and Termination - The term of this Agreement shall be from the Effective Date
17 to the date of completion of performance of the services under the Consultant Agreement, or the
18 date of payment in full by Western and Flood Control District of their respective obligations
19 under this Agreement, whichever is later. This Agreement shall remain in effect during the term
20 unless earlier terminated under the following procedures:

21 (a) Notice and Opportunity to Cure - If any Party to this Agreement believes that any
22 of the other Parties has failed to perform any obligation of that Party in accordance with the
23 terms of this Agreement ("Default"), the Party alleging the Default shall provide written notice
24 ("Default Notice") to the other Party, setting forth the nature of the alleged Default. Unless
25 otherwise provided by a specific term of this Agreement, the Party claimed to be in Default shall
26 have: (i) with respect to a Default involving the payment of money, ten (10) days after its
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1 receipt of the Default Notice to completely cure such Default, and (ii) with respect to any other
2 type of Default, thirty (30) days from the receipt of the Default Notice to completely cure such
3 Default or, if such Default cannot reasonably be cured within such thirty (30) day period, to
4 commence the cure of such Default within the thirty (30) day period and diligently prosecute the
5 cure to completion thereafter. If the Party claimed to be in Default does not cure such Default
6 within the time periods and procedures as set forth herein, the Party alleging Default may then
7 pursue any applicable legal and equitable remedies, including but not limited to termination of
8 this Agreement.
9

10 5. General Provisions

11 (a) Indemnification - Each Party ("Indemnitor") hereby agrees to defend, indemnify
12 and hold free and harmless the other Parties ("Indemnitees") from and against any and all
13 liability, expense, including defense costs and legal fees, and claims for damages of any nature
14 whatsoever, including, but not limited to, bodily injury, personal injury, death or property
15 damage, arising from or connected with the Indemnitor's activities under this Agreement,
16 including any Worker's Compensation suits, liability, or expense, arising from or connected with
17 services performed on behalf of Indemnitor by any person pursuant to this Agreement, whether
18 such claims, damages, liabilities, costs and/or judgments are based upon alleged negligence, a
19 dangerous condition of public property, or any other theory of liability. Indemnitor's duty to
20 indemnify the Indemnitees shall survive the expiration or other termination of this Agreement as
21 to any injuries, occurrences or claims occurring or alleged to have occurred prior to its
22 expiration or termination.
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25 (b) Relationship of the Parties - Nothing contained in this Agreement shall be
26 deemed or construed by the Parties or by any third person to create the relationship of principal
27 and agent, or partnership or joint venture, or any association between the Parties, and none of
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1 the provisions contained in this Agreement or any act of the Parties shall be deemed to create
 2 any relationship other than as specified herein, nor shall this Agreement be construed, except as
 3 expressly provided herein, to authorize any of the Parties to act as the agent for the other.

4 (c) Attorney Fees - If any Party brings suit against any of the other Parties to enforce
 5 or to recover for breach of any term, covenant or condition contained herein, the prevailing
 6 Party(ies) shall be entitled to attorney fees in addition to the amount of any judgment, recovery,
 7 and costs.

8 (d) Entire Agreement - This Agreement is intended by the Parties as a complete and
 9 exclusive statement of the terms of their agreement and it supersedes all prior agreements,
 10 written or oral, as to this subject matter. This Agreement may be modified only upon the mutual
 11 written agreement of the Parties hereto.

12 (e) Notices - Written notices to be given to either Party must be given by personal
 13 delivery or by registered or certified mail addressed and delivered as set forth below. Other
 14 correspondence and invoices may be sent by first-class mail, addressed and delivered as set
 15 forth below:
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18	Western Municipal Water District	City of Corona
19	14205 Meridian Parkway	400 S. Vicente Avenue
20	Riverside, CA 92518	Corona, CA 92882
	Attn: John V. Rossi, General Manager	Attn: Greg Watanabe

21 Riverside County Flood Control and Water Conservation District
 22 1995 Market Street
 23 Riverside, CA 92501
 24 Attn: Zully Smith, Chief of Operations and Maintenance Division

25 (f) Representation of Authority - Each Party represents to the other that it has the
 26 authority to enter into this Agreement and that the individual signing this Agreement on behalf
 27 of their respective Parties has the authority to execute this Agreement and to bind their
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1 respective Parties to the terms and conditions of this Agreement. Western and Flood Control
 2 District understand and acknowledge that City has entered into a Water Enterprise Management
 3 Agreement and a Wastewater Enterprise Management Agreement, both dated as of February 6,
 4 2002, with the Corona Utility Authority ("CUA") for the maintenance, management and
 5 operation of those utility systems (collectively, the "CUA Management Agreements"). To the
 6 extent that this Agreement is deemed to be a "material contract" under either of the CUA
 7 Management Agreements, City enters into this Agreement on behalf of the CUA and subject to
 8 the terms of the applicable CUA Management Agreement(s).
 9

10 (g) Incorporation of Recitals - The Recitals set forth above are incorporated herein
 11 and made an operative part of this Agreement.

12 (h) Invalidity and Severability - If any portion of this Agreement is declared invalid,
 13 illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining
 14 provisions shall continue in full force and effect.
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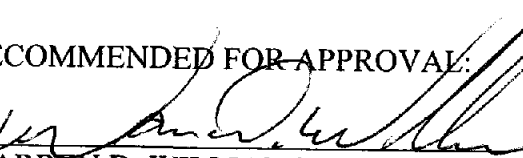
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1 IN WITNESS HEREOF, the parties hereto have executed this Agreement on

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3 (to be filled in by the Clerk of the Board)

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5 RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**

6 By 
7 WARREN D. WILLIAMS
8 General Manager-Chief Engineer

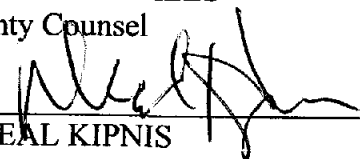
By _____
9 MARION ASHLEY, Chairman
10 Riverside County Flood Control and Water
11 Conservation District Board of Supervisors

12 APPROVED AS TO FORM:

ATTEST:

13 PAMELA J. WALLS
14 County Counsel

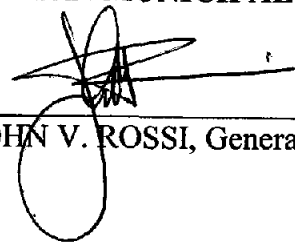
15 KECIA HARPER-IHEM
16 Clerk of the Board

17 By 
18 NEAL KIPNIS
19 Deputy County Counsel

By _____
20 Deputy

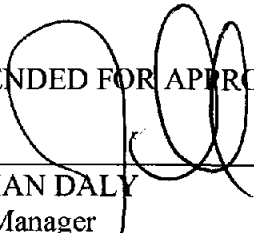
21 (SEAL)

22
23 **WESTERN MUNICIPAL WATER DISTRICT**

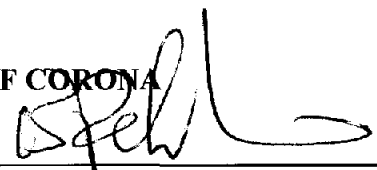
24 By 
25 JOHN V. ROSSI, General Manager

26 Interagency Cost Sharing Agreement
27 4/5/2011
28 MHW:blj

RECOMMENDED FOR APPROVAL:

By 
JONATHAN DALY
General Manager
Department of Water and Power

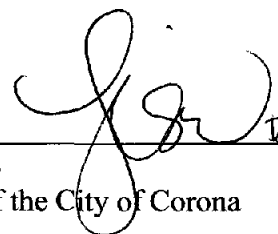
CITY OF CORONA

By 
BRADLY L. ROBBINS
City Manager

APPROVED AS TO FORM:

By 
DEAN DERLETH
City Attorney

ATTEST:

By 
JAN BATES
City Clerk of the City of Corona

Interagency Cost Sharing Agreement
4/5/2011
MHW:blj