

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

703 B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
December 17, 2013

SUBJECT: Subsequent Research Implementation Agreement To Develop and Implement a Laboratory Intercalibration Program for Toxicity, (Agreement No. D10-061)
District All [\$7,142.86]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Implementation Agreement (Agreement) between the District, the County of Orange, the Los Angeles County Flood Control District, the County of San Diego, the Ventura County Watershed Protection District, the San Bernardino County Flood Control District, the California Regional Water Quality Control Board (CRWQCB) – Los Angeles Region, CRWQCB – Santa Ana Region, CRWQCB - San Diego Region, and the Southern California Coastal Water Research Project, and
2. Authorize the Chairman to execute the Agreement on behalf of the District.

BACKGROUND:

Summary

The Agreement sets forth the terms and conditions by which the SMC Funding Parties, including Counties throughout southern California, will participate in the Toxicity Laboratory Intercalibration Program. The primary goal of the Toxicity Laboratory Intercalibration Program is to define a series of consistent protocols that will minimize intercalibratory variability and allow for the comparison of water quality information throughout the region.

WARREN D. WILLIAMS
General Manager-Chief Engineer

LMD:bjp
P8/157197

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 3,571.43	\$ 3,571.43	\$ 7,142.86	\$ 0	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET DISTRICT COST	\$ 3,571.43	\$ 3,571.43	\$ 7,142.86	\$ 0	

SOURCE OF FUNDS: 25190-947560-527240 Santa Ana Assessment, NPDES Contribution
Budget Adjustment: No
For Fiscal Year: 13/14 & 14/15

C.E.O. RECOMMENDATION:

APPROVE
BY:
Steven C. Horn, MPA

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

Prev. Agn. Ref.: District All Agenda Number:

11 - 3

FORM APPROVED COUNTY COUNSEL BY: NEAL R. KINNIS

Departmental Concurrence

FISCAL PROCEDURES APPROVED BY: REGINA L. NEAL

- Positions Added
- Change Order
- A-30
- 4/5 Vote

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

FORM 11: Subsequent Research Implementation Agreement To Develop and Implement a Laboratory Intercalibration Program for Toxicity (Agreement No. D10-061)

District All [\$7,142.86]

DATE: December 17, 2013

PAGE: Page 2 of 2

BACKGROUND:

Summary (continued)

This Agreement sets forth the terms and conditions by which the parties will participate in the Toxicity Laboratory Intercalibration Program. In addition, the Agreement also sets forth the terms and conditions by which the District, County of Orange, Los Angeles County Flood Control District, County of San Diego, San Bernardino County Flood Control District, Ventura County Watershed Protection District, and the Southern California Coastal Water Research Project will contribute funding toward the Toxicity Laboratory Intercalibration Program.

There is a disparity in the occurrence, frequency, and methods of aquatic toxicity testing among the municipal National Pollutant Discharge Elimination System stormwater permittees in southern California. The primary goal of the Toxicity Laboratory Intercalibration Program is to define a series of consistent protocols that will minimize intercalibratory variability and allow for the comparability of water quality information throughout this region of southern California.

Impact on Citizens and Businesses

No impact to residents and businesses.

LMD:bjp
P8/157197

SUBSEQUENT RESEARCH IMPLEMENTATION AGREEMENT TO DEVELOP AND IMPLEMENT A LABORATORY
INTERCALIBRATION PROGRAM FOR TOXICITY

THIS AGREEMENT, for purposes of identification numbered D10-061, is made and entered into this ____ day of _____, 2013, by and between the County of Orange, the Los Angeles County Flood Control District, the County of San Diego, the Ventura County Watershed Protection District, the Riverside County Flood Control and Water Conservation District, the San Bernardino County Flood Control District, the California Regional Water Quality Control Board, Los Angeles Region, the California Regional Water Quality Control Board, Santa Ana Region, the California Regional Water Quality Control Board, San Diego Region, and the Southern California Coastal Water Research Project (SCCWRP). These entities are hereinafter sometimes jointly referred to as the "PARTIES" and individually as "PARTY". The County of Orange, Los Angeles County Flood Control District, the County of San Diego, the Ventura County Watershed Protection District, the Riverside County Flood Control and Water Conservation District, and the San Bernardino County Flood Control District are sometimes jointly referred to as "MUNICIPAL PARTIES" and together with SCCWRP are sometimes jointly referred to as "FUNDING PARTIES".

WITNESSETH

WHEREAS, Section 402 of the Clean Water Act (33 U.S.C.A. 1342(p)) contain provisions for applications for municipal and industrial stormwater discharge permits; and,

WHEREAS, these provisions require the control of pollutants from stormwater discharges by requiring a National Pollutant Discharge Elimination System (NPDES) permit under authority granted by the United States Environmental Protection Agency to allow the lawful discharge of stormwater into waters of the United States; and,

WHEREAS, in southern California NPDES stormwater permits have been issued by the Los Angeles, San Diego and Santa Ana Regional Water Quality Control Boards in the

1 counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego and Ventura
2 naming the counties, cities and flood control/watershed protection districts as co-
3 permittees; and,

4 WHEREAS, all the NPDES stormwater permits issued to the MUNICIPAL PARTIES have
5 requirements for extensive monitoring and encourage inter-jurisdictional cooperation
6 in monitoring; and,

7 WHEREAS, the mission of the SCCWRP, a Joint Powers Authority, is to contribute
8 to the scientific understanding of linkages among human activities, natural events and
9 the health of the southern California coastal environment, and whose goal is to
10 develop, participate in and coordinate programs to further this mission; and,

11 WHEREAS, all of the PARTIES, except Los Angeles County Flood Control District,
12 have agreed through Agreement D06-049 dated June 4, 2008 to collaborate on a
13 cooperative research/monitoring program to develop methodologies and assessment tools
14 to more effectively understand urban stormwater and non-stormwater (anthropogenic)
15 impacts to receiving waters and to conduct research/monitoring through Subsequent
16 Research Implementation Agreements between interested PARTIES; and,

17 WHEREAS, Agreement D06-049 recognizes that other parties, not signatory to the
18 Agreement may, by written agreement, become parties to these Subsequent Research
19 Implementation Agreements; and,

20 WHEREAS, many of the scientific and technical tools for stormwater program
21 implementation, assessment and monitoring remain not fully developed; and,

22 WHEREAS, the PARTIES have identified that further work is needed to
23 intercalibrate on toxicity analyses. The work is hereinafter referred to as the
24 TOXICITY LABORATORY INTERCALIBRATION PROGRAM; and,

25 WHEREAS, the cost of the TOXICITY LABORATORY INTERCALIBRATION PROGRAM is
26 \$50,000 and will be shared by the FUNDING PARTIES according to the cost allocations
set forth in Exhibit B, which is attached hereto and made a part hereof; and,

1 WHEREAS, SCCWRP has agreed to manage the TOXICITY LABORATORY INTERCALIBRATION
2 PROGRAM on behalf of the PARTIES.

3 NOW, THEREFORE, IT IS AGREED by and between the PARTIES hereto as follows:

4 Section 1. PURPOSE. This AGREEMENT is entered into as a Subsequent Research
5 Implementation Agreement, pursuant to Agreement D06-049, for the purpose of conducting
6 the TOXICITY LABORATORY INTERCALIBRATION PROGRAM as described in Exhibit A.

7 Section 2. TERM. The term of this AGREEMENT shall commence upon approval and
8 execution of this document by the last signatory to this AGREEMENT and shall continue
9 for a period of up to two (2) years from that date, or until completion of the Scope
10 of Work, whichever occurs first.

11 Section 3. TOXICITY LABORATORY INTERCALIBRATION PROGRAM. SCCWRP is designated
12 as the Lead Agency for conducting the TOXICITY LABORATORY INTERCALIBRATION PROGRAM. As
13 Lead Agency, SCCWRP shall coordinate all portions of the scope of work described in
14 Exhibit A of this AGREEMENT, collect funds from the FUNDING PARTIES, provide progress
15 reports to the Steering Committee, established by Agreement D06-049 comprising one
16 representative from each signatory, on the work completed and the monies expended, and
17 perform other administrative functions necessary to ensure the update of the TOXICITY
18 LABORATORY INTERCALIBRATION PROGRAM. Exhibit A is attached hereto and made a part
19 hereof.

20 Section 4. FUNDING. Exhibit B describes the estimated cost share
21 allocations for the FUNDING PARTIES for conducting the TOXICITY LABORATORY
22 INTERCALIBRATION PROGRAM. Exhibit B is attached hereto and made a part hereof.

23 Section 5. PAYMENT. The FUNDING PARTIES will each make the payment of their cost
24 share allocation, identified in Exhibit B of this AGREEMENT, to SCCWRP within ninety
25 (90) days of the effective date of this AGREEMENT.

26 Within 60 days of completion of the work described in Exhibit A of this
AGREEMENT, SCCWRP shall provide a final written accounting of expenditures to each of
the FUNDING PARTIES for conducting the TOXICITY LABORATORY INTERCALIBRATION PROGRAM.

1 If the expenditures are less than the cost share payments made by the FUNDING PARTIES,
2 SCCWRP shall reimburse to each PARTY its prorated share of the excess within forty-
3 five (45) days of the final accounting.

4 Section 6. REGULATORY RESPONSIBILITIES AND OBLIGATIONS. It is mutually
5 understood and agreed that, merely by virtue of entering into this AGREEMENT, the
6 regulatory responsibilities and obligations of each PARTY are in no manner modified.
7 Any such responsibilities and obligations remain the same, while this AGREEMENT is in
8 force, as they were before this AGREEMENT was made.

9 Section 7. AMENDMENT. This AGREEMENT may be amended upon the written approval of
10 all of the PARTIES. Any amendment to this AGREEMENT must be in writing and fully
11 executed by all PARTIES to be effective.

12 Section 8. LIABILITY. It is mutually understood and agreed that, merely by
13 virtue of entering into this AGREEMENT, each PARTY neither relinquishes liability for
14 its own actions nor assumes liability for the actions of other PARTIES. It is the
15 intent of the PARTIES that liability of each PARTY shall remain the same, while this
16 AGREEMENT is in force, as it was before this AGREEMENT was made.

17 Section 9. TERMINATION. Any PARTY wishing to terminate its participation in this
18 AGREEMENT shall provide ninety (90) days prior written notice to all the other PARTIES
19 of its intent to withdraw. Such termination shall be effective ninety (90) days after
20 the notice is received or deemed received ("EFFECTIVE DATE OF TERMINATION"). If the
21 terminating PARTY is a FUNDING PARTY, the terminating PARTY shall continue to be
22 responsible for its share of the financial obligations incurred, as described in
23 Exhibit B to this AGREEMENT, up to the EFFECTIVE DATE OF TERMINATION. The remaining
24 PARTIES may continue in the performance of the terms and conditions of this AGREEMENT
25 on the basis of a revised allocation of the costs in Exhibit B pursuant to Section 7
26 of this AGREEMENT or may elect to terminate the AGREEMENT.

Notwithstanding the above, if the terminating PARTY is SCCWRP, the agreement
will automatically terminate on the EFFECTIVE DATE OF TERMINATION. Within 60 days of
RCFC/P8/157175 4 Final

1 the EFFECTIVE DATE OF TERMINATION, SCCWRP shall provide all work products completed, a
2 final written accounting and reimbursement of any unexpended funds to the PARTIES.

3 Section 10. AVAILABILITY OF FUNDS. The obligation of each PARTY is subject to
4 the availability of funds appropriated for this purpose, and nothing herein shall be
5 construed as obligating the MUNICIPAL PARTIES to expend funds in excess of
6 appropriations authorized by law.

7 Section 11. NO THIRD PARTY BENEFICIARIES. Nothing expressed or mentioned in this
8 AGREEMENT is intended or shall be construed to give any person, other than the PARTIES
9 hereto, and any permitted successors, any legal or equitable right, remedy or claim
10 under or in respect of this AGREEMENT or any provisions herein contained. This
11 AGREEMENT and any conditions and provisions hereof is intended to be and is for the
12 sole and exclusive benefit of the PARTIES hereto and the others mentioned above, and
13 for the benefit of no other person.

14 Section 12. REFERENCE TO CALENDAR DAYS. Any reference to the word "day" or
15 "days" herein shall mean calendar day or calendar days, respectively, unless otherwise
16 expressly provided.

17 Section 13. ATTORNEYS FEES. In any action or proceeding brought to enforce or
18 interpret any provision of this AGREEMENT, or where any provision hereof is validly
19 asserted as a defense, each PARTY shall bear its own attorneys' fees and costs.

20 Section 14. ENTIRE AGREEMENT. Except as stated in Agreement D06-049, this
21 AGREEMENT is intended by the PARTIES as a final expression of their agreement and is
22 intended to be a complete and exclusive statement of the agreement and understanding
23 of the PARTIES hereto in respect of the subject matter contained herein and supersedes
24 all prior agreements and understandings between the PARTIES with respect to such
25 matter. There are no restrictions, promises, warranties or undertakings, other than
26 those set forth or referred to herein.

1 Section 15. SEVERABILITY. If any part of this AGREEMENT is held, determined or
 2 adjudicated to be illegal, void, or unenforceable by a court of competent
 3 jurisdiction, the remainder of this AGREEMENT shall be given effect to the fullest
 4 extent reasonably possible.

5 Section 16. SUCCESSORS AND ASSIGNS. The terms and provisions of this AGREEMENT
 6 shall be binding upon and inure to the benefit of the PARTIES hereto and their
 7 successors and assigns.

8 Section 17. NOTICES. All notices required or desired to be given under this
 9 AGREEMENT shall be in writing and (a) delivered personally, or (b) sent by certified
 10 mail, return receipt requested or (c) sent by telefacsimile communication followed by
 11 a mailed copy, to the addresses specified below, provided each PARTY may change the
 12 address for notices by giving the other PARTIES at least ten (10) days written notice
 13 of the new address. Notices shall be deemed received when actually received in the
 14 office of the addressee or when delivery is refused, as shown on the receipt of the
 15 U.S. Postal service, or other person making the delivery, except that notices sent by
 16 telefacsimile communication shall be deemed received on the first business day
 17 following delivery.

18 Director, OC Public Works
 County of Orange
 19 P.O. Box 4048
 Santa Ana, CA 92702-4048

20 Director of Public Works
 Los Angeles County FCD
 21 Watershed Management Division
 900 S. Fremont Ave.
 22 Alhambra, CA 91803

23 Director
 Ventura County W.P. District
 24 800 S. Victoria
 Ventura, CA 93009

25 General Manager-Chief Engineer
 Administrative Services Section
 26 Riverside County FC&WCD

1 1995 Market St.
Riverside, CA 92501

2 Asst. Director of Public Works
3 County of San Diego
4 5201 Ruffin Road, Suite P
San Diego, CA 92123

5 Flood Control Engineer
6 County of San Bernardino FCD
825 E. 3rd Street
San Bernardino, CA 92415-0835

7 Executive Officer
8 Los Angeles RWQCB
320 W. 4th St., Suite 200
Los Angeles, CA 90013

9 Executive Officer
10 Santa Ana RWQCB
3737 Main St., Suite 500
Riverside, CA 92501

11 Executive Officer
12 San Diego RWQCB
9174 Sky Park Court, Ste 100
San Diego, CA 92123

13 Executive Director
14 SCCWRP
3535 Harbor Blvd
15 Costa Mesa, CA 92626

16 Section 18. OWNERSHIP OF DOCUMENTS. Upon completion of each written task
17 deliverable described in Exhibit A of this AGREEMENT , SCCWRP shall provide each of
18 the PARTIES with a copy of the work product. The PARTIES, individually or jointly,
19 shall not be limited in any way in their use of all data in the work product,
20 including but not limited to reports, files, plans, drawings, specifications,
21 proposals, sketches, diagrams and calculations, provided that any such use not within
22 the purposes of this AGREEMENT shall be at the sole risk of the PARTY making that use.

23 Section 19. EXECUTION OF AGREEMENT. This AGREEMENT may be executed in
24 counterpart and the signed counterparts shall constitute a single instrument.

25 Section 20. EFFECTIVE DATE. This AGREEMENT shall become effective upon the last
26 date of signature by a PARTY.

1 IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT on the dates
2 opposite their respective signatures:

3 COUNTY OF ORANGE

4 A political subdivision of the State of
5 California

6 Date: _____

7 By _____
8 Deputy Purchasing Agent, OC Public Works

9 APPROVED AS TO FORM
10 COUNTY COUNSEL

11 By _____
12 Deputy

13 Date: _____
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LOS ANGELES COUNTY FLOOD CONTROL DISTRICT
A body corporate and politic of the State of
California

Date: _____

By _____
Chief Engineer

APPROVED AS TO FORM:
ANDREA SHERIDAN ORDIN
County Counsel

By _____
Deputy

Date: _____

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COUNTY OF SAN DIEGO
A political subdivision of the State of
California

Date: _____

By _____
Director, Purchasing and Contracting

ATTEST:

Date: _____

By _____
Director of Public Works

APPROVED AS TO FORM
COUNTY COUNSEL

By _____
Deputy

Date: _____

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VENTURA COUNTY WATERSHED PROTECTION DISTRICT
A body corporate and politic

Date: _____

By _____
Chair of the Board of Supervisors of the
Ventura County Watershed Protection District

ATTEST:

Date: _____

By _____
Clerk of the Board of Supervisors of
Ventura County, California and ex-officio
Clerk of the Board of the Ventura County
Watershed Protection District

APPROVED AS TO FORM
COUNTY COUNSEL

By _____
Deputy

Date: _____