

MUNI/WESTERN EXHIBIT 3-5
FUNDING AGREEMENT WITH LOCAL SPONSORS



SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT
1350 South "E" Street, San Bernardino, CA 92408

MEETING OF THE BOARD OF DIRECTORS

AGENDA

2:00 p.m. Wednesday, October 18, 2006

CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL

1. PUBLIC COMMENT

Any person may address the Board on matters within its jurisdiction.

2. APPROVAL OF MINUTES

A. October 4, 2006 Board Meeting (Page 4)

3. REALLY OLD (some might say, Ancient) BUSINESS

A. Wes Danskin Modeling Report Presentation (Page 8)

4. OLD BUSINESS (Discussion and Possible Action)

A. Update on Proposal from California Regional Water Quality Control Board Santa Ana Region - Initial Study and Negative Declaration and Issuance of General Waste Discharge Requirements for the Injection/Percolation of Imported State Project Water, Colorado River Water or Imported Well Water to Recharge Groundwater Management Zones within the Santa Ana Region – Resolution No. R8-2006-0042 and Order No. R8-2006-0005

5. NEW BUSINESS (Discussion and Possible Action)

- A. Consider Change of Date for December 6, 2006, Board Meeting
- B. Agreement Among the Santa Ana River Mainstem Project Local Sponsors and San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County for Funding a Seven Oaks Dam Water Conservation Feasibility Report (Page 14)

6. REPORTS (Discussion and Possible Action)

A. High Groundwater Mitigation Committee, October 9

- B. San Bernardino Regional Water Resources Authority, October 10
- C. East Valley Water District 2006 Water Quality Conference, October 11-13
- D. Integrated Regional Groundwater Management Plan Technical Advisory Group (TAG), October 16
- E. Association of the San Bernardino County Special Districts, October 16
- F. Watershed Salinity Management Workgroup, October 16
- G. SAWPA Commission, October 17
- H. Operations Report (Page 28)
- I. Treasurer's Report (Page 31)
- J. Directors' Activities

7. **ANNOUNCEMENTS**

- A. October 19, 2006 – Upper Santa Ana Water Resources Association, 9:30 a.m. at San Bernardino Valley Water Conservation District
- B. October 24, 2006 – Baseline Feeder Committee, 9:00 a.m. at the District Office
- C. October 25-27, 2006 – Water Education Foundation Tour, 8:00 a.m., at Ontario Airport
- D. October 31, 2006 – Lakes and Streams Committee, 11:30 a.m. at the District Office
- E. November 1, 2006 – Board Meeting, 2:00 p.m. at the District Office
- F. November 7, 2006 – SAWPA Committees, 9:00 a.m. SAWPA
- G. November 8, 2006 – Lakes and Streams Committee, 11:30 a.m. at the District Office
- H. November 9, 2006 – Upper Santa Ana Water Resources Association, 9:30 a.m. at San Bernardino Valley Water Conservation District
- I. November 9, 2006 – Advisory Commission on Water Policy, 7:00 p.m. at the District Office
- J. November 13, 2006 – High Groundwater Mitigation Committee, 8:30 a.m. at the District Office
- K. November 14, 2006 – San Bernardino Regional Water Resources Authority, 5:00 p.m. at San Bernardino City Hall
- L. November 15, 2006 – Board Meeting, 2:00 p.m. at the District Office

8. **CLOSED SESSION**

- A. Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9(a) – Name of Case: Center for Biological Diversity v. Local Agency Formation Commission of the County of San Bernardino – Case Number SCVSS 136990 (San Bernardino County Superior Court)
- B. Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9(a) – Name of Case: Alameda County Flood Control and Water Conservation District Zone 7 et al. v. State Department of Water Resources – Case Number 05-AS01775 (Sacramento Superior Court)

- C. Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9(a) – Name of Case: Water Right Applications Nos. 311165 and 31370 (Santa Ana River, San Bernardino County) (pending before the State Water Resources Control Board)
- D. Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(b) (1 Case)
- E. Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation Pursuant to Government Code Section 54956.9(c) (1 Case)
- F. Pursuant to Government Code Section 54957 – Public Employment – Position: General Manager

9. **ADJOURNMENT**

The District recognizes its obligation to provide equal access to those individuals with disabilities. Please contact Lillian Hernandez at (909) 387-9214 two working days prior to the meeting with any special requests for reasonable accommodation.

AGREEMENT

AMONG THE SANTA ANA RIVER MAINSTEM PROJECT LOCAL SPONSORS AND
SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT AND
WESTERN MUNICIPAL WATER DISTRICT OF RIVERSIDE COUNTY
For
FUNDING A SEVEN OAKS DAM WATER CONSERVATION FEASIBILITY REPORT

THIS AGREEMENT, entered into this _____ day of _____ 2006, by and among the Santa Ana River Mainstem Sponsors – San Bernardino County Flood Control District (“**SBCFCD**”), Orange County Flood Control District (“**OCFCD**”), and Riverside County Flood Control and Water Conservation District (“**RCFC&WCD**”), collectively referred to as “**Local Sponsors**”, and San Bernardino Valley Municipal Water District (hereinafter referred to as “**Muni**”) and Western Municipal Water District of Riverside County (hereinafter referred to as “**Western**”) and collectively referred to as “**Water Agencies**”, to provide a funding and approval process for an update of the Feasibility Study Report for water conservation at Seven Oaks Dam (“**SOD**”), originally prepared by the U.S. Army Corps of Engineers (“**Corps**”) in 1997 (“**1997 Feasibility Report**”). Each of the parties to this Agreement is referred to herein as a “**Party**”, and the parties are collectively referred to herein as “**Parties**”.

RECITALS

WHEREAS, the **Local Sponsors** are the owners and operators of SOD, are responsible for ensuring that any water conservation does not compromise SOD’s primary use as a flood control facility, and are responsible to operate the SOD for water conservation if implemented;

WHEREAS, the **OCFCD** Chief Engineer, in the role of the Chief Engineer for the SOD, is responsible for final decisions regarding analyses, preparation of reports/studies and written comments associated with the Study Update, and is responsible for resolving disputes, if any, as to SOD operation in relation to the Study Update, to the extent that operational disputes are not otherwise resolved through changes to the SOD Operations Manual;

WHEREAS, **SBCFCD**, as the non-Federal sponsor, entered into a Study Agreement with the Corps in 1993 requesting the Corps to study the feasibility of water conservation at SOD;

WHEREAS, pursuant to the Study Agreement, the Corps prepared the 1997 Feasibility Report;

WHEREAS, the **Water Agencies** have requested an update of the 1997 Feasibility Report through further investigation of water conservation options and impacts, and ultimately desire the Corps and Local Sponsors to revise the SOD Operations Manual to include water conservation in addition to flood control purposes (“**Study Update**”);

WHEREAS, in order to conduct the Study Update, a non-Federal local sponsor must enter into an agreement with the Corps and arrange for Study Update funding;

WHEREAS, the **Parties** have determined that the most efficient and expeditious manner to conduct the Study Update is to amend the 1993 Study Agreement between the Corps and **SBCFCD** (“Amended Study Agreement”);

WHEREAS, **SBCFCD** has agreed to be the non-Federal local sponsor for the Study Update and to enter into an Amended Study Agreement, subject to approval of this Agreement by all **Parties** and further subject to approval of the Amended Study Agreement and Project Management Plan as described herein;

WHEREAS, as requested by the **Local Sponsors’** respective Chief Engineers, the **SBCFCD’s** Chief Engineer submitted letters to the Corps on June 15, 2005 and March 15, 2006, requesting the Corps to prepare a scope of work and cost estimate for the Study Update;

WHEREAS, prior to entering into the Amended Study Agreement, the **Local Sponsors** and **Water Agencies** intend to guarantee funding for the Study Update, including all related **Local Sponsors** expenses (collectively referred to as “Study Costs”), and intend to establish procedures for approving the Amended Study Agreement and the Project Management Plan;

WHEREAS, the **Water Agencies** are willing to fund one hundred percent (100%) of Study Costs; and

WHEREAS, the **Parties** desire to describe and formalize procedures for financing and approving the Study Update, including the Amended Study Agreement and the Project Management Plan.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the **Parties** do hereby agree as follows:

AGREEMENT

1. RECITALS INCORPORATED. The foregoing recitals are hereby incorporated into this Agreement as if fully set forth herein.
2. DEFINITIONS. For purposes of this Agreement the following terms are further defined.
 - a. The term “Study Update” shall mean the update to the 1997 Feasibility Report and associated analyses, studies, reports and documents conducted by the Corps, with the support and assistance of the **Water Agencies** and **Local Sponsors**, to study the feasibility of water conservation at SOD. The Study Update may include, but is not limited to, updated descriptions, analyses, and cost/benefit determinations on water conservation implementation options, updated impacts analyses, and other such reports, studies or investigations as may be necessary to comply with other laws, including, but not limited to, the federal Endangered Species Act, California Endangered Species Act, the National Environmental Policy Act, and the California Environmental Quality Act.
 - b. The term “Amended Study Agreement” shall mean the “Agreement Between the United States of America and San Bernardino County, California Flood Control District for the Seven Oaks Dam Water Conservation Study, California”, entered into on August 23, 1993, as amended by the Corps and **SBCFCD** to authorize the Corps to conduct and fund the Study Update.
 - c. The term “Project Management Plan” (or “PMP”) shall mean the specific tasks, studies, analyses, and deliverables, including cost estimates, for the Study Update. Subject to final

approval by the Corps, the PMP will be incorporated into and made part of the Amended Study Agreement.

d. The term "Study Costs" shall mean all costs identified below.

- (1.) The Corps' expenses, as defined in the Amended Study Agreement, which may include, among other things, the Corps' expenses for preparation of the Amended Study Agreement and the Project Management Plan.
- (2.) The **Local Sponsors'** expenses, starting after June 15, 2005 and until termination and completion of final accounting for this Agreement as described in Paragraph 4.i., herein ("Final Accounting"), for:
 - (a.) Preparation of agreements and procedures;
 - (b.) Developing and providing information to, and meeting and consulting with, the **Water Agencies** concerning the Amended Study Agreement and Project Management Plan, or portions thereof;
 - (c.) Any other actions or tasks related to the Study Update including, but not limited to, the **Local Sponsors'** analysis, preparation and/or review of documents which are portions of, or that the **Local Sponsors** consider applicable to, the Study Update;
 - (d.) Other costs, as further described in Attachment I of this Agreement;
 - (e.) Any other Local Sponsors expenses defined as Study Costs in the Amended Study Agreement.

3. ADMINISTRATION OF AGREEMENT AND AMENDED STUDY AGREEMENT

- a. Role of Local Sponsor Chief Engineers. By approval of this Agreement, the **Local Sponsors'** respective Boards of Supervisors ("Boards") designate their respective Chief Engineers ("Chief Engineers") to represent them regarding development and implementation of this Agreement, and development of the Amended Study Agreement and Project Management Plan. For purposes of this Agreement, the Local Sponsors' Chief Engineers shall mean the **OCFCD** Director of Public Works-Chief Engineer, the **SBCFCD** Chief Engineer, and the **RCFC&WCD** General Manager-Chief Engineer.
- b. Role of SBCFCD Chief Engineer. Upon approval of the Amended Study Agreement by the **SBCFCD** and the Corps, the **SBCFCD** Chief Engineer shall be the primary point of contact between the **Local Sponsors** and the Corps. The **SBCFCD** Chief Engineer shall be responsible to ensure that funding related to the Study Update is accomplished in a timely manner. The **SBCFCD** Chief Engineer shall represent the interests of, and communicate on behalf of, the **Local Sponsors** to the fullest extent practicable in carrying out this Agreement and the Amended Study Agreement.
- c. Coordination of Local Sponsors' Approvals and Actions. Prior to taking or approving any action under this Agreement or Amended Study Agreement, including approval and execution of the Amended Study Agreement, the PMP, and/or any amendments or modifications thereto, the **SBCFCD** Chief Engineer shall consult with the other Chief Engineers and shall obtain written authorization from each of the other Chief Engineers to

take the specific action or to make the specific approval. The **Parties** understand that the written authorizations required under this paragraph may require approvals from the **Local Sponsors'** respective Boards.

- d. Management and Coordination of the Amended Study Agreement and PMP; Study Management Team. By approval of this Agreement, the **Local Sponsors** acknowledge that the overall management and coordination of the Study Update is intended to be generally governed by the Amended Study Agreement, and that, subject to Corps approval, the overall study management:
 - a. shall be the responsibility of an Executive Committee consisting of the Los Angeles District Commander, the Deputy District Engineer for Project Management, the Los Angeles District Chief of Planning Division, and the **SBCFCD** Chief Engineer;
 - b. The Executive Committee is to appoint representatives to serve on a Study Management Team to coordinate on all matters relating to the Study Update; and
 - c. The **SBCFCD** Chief Engineer is to appoint a representative of each of the **Parties** to the Study Management Team. Upon approval of this Agreement, the **SBCFCD** Chief Engineer shall promptly consult with the Corps, **Water Agencies**, and the other Chief Engineers to develop a proposed Study Management Team for the Study Update, and to draft proposed procedures for meetings, scheduling, task assignments, task and expense monitoring and reporting, notifications, meeting minutes preparation and distribution, providing copies of other communications, reports and documents, and preparation of periodic progress reports on the Study Update, to be considered for approval by the Executive Committee upon approval of the Amended Study Agreement by the Corps and **SBCFCD**.
- e. Cooperation. The **Parties** will work cooperatively with the Corps and the other **Parties** toward accomplishing the Study Update in a timely manner.

4. WATER AGENCIES' RESPONSIBILITIES.

- a. Muni and Western Cost Share Obligations. **Muni** shall provide 71.95 percent share of the Study Costs, and **Western** shall provide 28.05 percent share of Study Costs, according to the procedures set forth in paragraph 5 of this Agreement.
- b. Remaining Funds Distribution. **Muni** and **Western** shall be reimbursed any remaining funds available, as applicable upon completion of Final Accounting, at the same pro-rata share as their respective funding.
- c. Failure to Provide Funds; Termination of Agreement. Should the **Water Agencies** fail to provide the total amount(s) requested pursuant to Paragraph 5., herein, the **Local Sponsors/SBCFCD** may take any or all of the following measures:
 - (1.) Terminate this Agreement;
 - (2.) Cease their participation in the Study Update; and
 - (3.) Terminate the Amended Study Agreement and Study Update.

5. SBCFCD CHIEF ENGINEER'S RESPONSIBILITIES FOR FUNDS MANAGEMENT.

Upon execution of this Agreement, the **SBCFCD** Chief Engineer or his designee is authorized to and shall perform the following tasks:

- a. Establish Escrow Account. Establish an escrow account ("Escrow Account");

- b. Corps Requirements. Request that the Corps identify the specific federal funding requirements for the Study Update;
- c. Local Sponsors' Prior Study Costs. Identify each of the **Local Sponsors'** actual Study Costs incurred since June 15, 2005, based on its, **RCFC&WCD's** and **OCFCD's** respective accounting records and written statements summarizing expenses, and the reasons for expenses, to the date said statements are prepared/received by **SBCFCD**;
- d. Local Sponsors' Estimates of Future Study Costs. Based on the PMP, prepare an estimate of the projected Study Costs for the applicable Federal Fiscal Year ("FFY") for each of the **Local Sponsors**, and if applicable thereafter, on an annual basis prepare/request estimates for subsequent FFY;
- e. Local Sponsors' Actual Future Study Costs. After execution of this Agreement, prepare written statements for the actual Study Costs incurred in each FFY quarter, by each of the **Local Sponsors**, based on the their respective accounting records and written statements summarizing expenses, and the reasons for expenses;
- f. Request and Deposit Funds. Request the **Water Agencies** to provide funds for deposit into the Escrow Account within forty-five (45) calendar days after receipt of written Notice from **SBCFCD**, for Study Costs as calculated in Paragraph 4.c.-e., herein;
- g. Distribution of Funds. Upon receipt of funds requested pursuant to Paragraph 4.f., herein:
 - (1) Promptly deposit funds into the Escrow Account;
 - (2) distribute funds for use by the Corps within forty-five (45) days of request by the Corps (or other time period as may be required and described in the Study Agreement); and
 - (3) Pay **Local Sponsors'** Study Costs based on previously provided, and subsequent quarterly written statements of expenses and reason/purpose of expense, with supporting accounting documents, provided by each Sponsor for their respective expenses, within forty-five (45) days after preparation/receipt of such statements.
- h. Corps Costs. Request that the Corps provide accounting of its Study Costs on a quarterly basis, and upon completion of the Study Update, promptly prepare a final accounting of the Corps' Study Costs and return any unused funds to the **SBCFCD** Chief Engineer for disbursement to the **Water Agencies**;
- i. Quarterly Accounting of Escrow Account. Within forty-five (45) days of the end of each quarter during the term of this Agreement, provide the **Parties** with an accounting and support documentation on Escrow Account deposits, withdrawals/payments, interest earnings, and remaining balance;
- j. Books and Records.
 - (1.) Keep books, records, documents and all other evidences (including records on electronic media) pertaining to deposits, written statements of expenses, and payments/draw downs pursuant to this Agreement;

- (2.) Maintain said documents and make them available for review or audit, within thirty (30) days of Notice by one or more **Party** at any time during the term of this Agreement, and for a period of three (3) years after Agreement termination.

k. Final Accounting.

- (1.) In the event of one or more of the following, initiate a Final Accounting by requesting documentation from the Corps and **Local Sponsors** as applicable:
 - a. The Amended Study Agreement is not executed, or is terminated pursuant to the provisions of the Amended Study Agreement;
 - b. The **Water Agencies** fail to provide adequate funds for Study Costs and/or fail to provide funds within the time frames requested by **SBCFCD**; or
 - c. The Study Update is completed.
- (2.) Within ninety (90) days (or sooner if required by the Corps) after receiving respective final accountings from the Corps, request **RCFC&WCD** and **OCFCD** to provide final accounting reports on their respective Study Costs,
- (3.) Provide a complete accounting report to the **Parties** on Escrow Account deposits, withdrawals/payments, interest earnings, remaining funds available or remaining funding required.
- (4.) When providing said accounting, either request additional funds from the **Water Agencies** to be provided within forty-five (45) days Notice (or sooner if required by the Corps) of the additional funding requirement, or return any remaining funds in the Escrow Account (which may include reimbursement from the Corps as may be provided for in the Amended Study Agreement) to the **Water Agencies**, and close the Escrow Account.
- (5.) If additional funding/deposit is requested, then within forty-five (45) days after receipt of said funds (or sooner if required by the Corps), make final payments as applicable, close the Escrow Account, and provide a Final Accounting to the **Parties**.

6. EXTENT OF AGREEMENT

- a. No Warranty of Suitability. Nothing in this Agreement is intended by the **Parties** or shall be construed to constitute a representation or warranty by the **Local Sponsors** to the **Water Agencies**, or any other individual or entity, as to the suitability of the SOD for water conservation purposes.
- b. Extent of Relationship Among Parties. The purposes of this Agreement are to arrange for funding and administration the Study Update, to confirm the respective roles and responsibilities of the **Parties** for the purposes of conducting the Study Update, and to establish accounting and other support procedures and assignments to implement this Agreement and the Study Update. Nothing in this Agreement is intended by the **Parties** or shall be construed to constitute, a joint venture, partnership or any other form of relationship among the **Parties** as to the operation of the SOD for flood control as described in the SOD Water Control Plan and any modifications thereof, or any agreement as to the potential modification of SOD operations for water conservation. Any potential operational or facility

changes at SOD to allow water conservation will require, among other things, a separate agreement approved by the **Local Sponsors'** respective Boards. The **Parties** understand that entering into this Agreement in no way obligates the **Local Sponsors** to implement water conservation at SOD.

- c. **Hold Harmless.** **Water Agencies** shall defend, indemnify, and hold the **Local Sponsors** and their respective County, elected and appointed officials, officers, directors, employees, consultants, independent contractors, and agents, jointly and individually, (collectively referred to as Indemnitees) free and harmless from any liability whatsoever, based or asserted upon any act or omission, for property damage, monetary loss, bodily injury, or death (including death of **Water Agencies'** employees,) or any other element or claim of damage or injury of any kind or nature, relating or in any way connected with or arising or resulting from the **Parties** entering into this Agreement, and/or the **SBCFCD** entering into the Amended Study Agreement, and/or the **Parties** participating in any manner whatsoever in the Study Update. The **Water Agencies** shall defend, with Counsel approved by each of the **Local Sponsors** for each of them and their respective Indemnitees, or by all of the **Local Sponsors** for all of the Indemnitees, including without limitation, attorney fees, expert fees and investigation expense. This indemnity obligation shall not apply to any liability of one or more of the **Local Sponsors** arising from the negligence or willful misconduct of that one or more of the **Local Sponsors** in their respective accounting of Study Costs and/or funds related to the implementation of this Agreement. The obligations to indemnify, defend and hold the Indemnitees free and harmless herein shall survive the termination of this Agreement.

7. GENERAL PROVISIONS

- a. **Authority.** Each signatory to this Agreement represents that s/he is authorized to execute this Agreement on behalf of the **Party** for which s/he signs. Each **Party** represents that it has the legal authority to enter into and to perform its respective obligations under this Agreement.
- b. **Headings.** The paragraph and other headings used in this Agreement are intended for convenience only and shall not be used in interpreting this Agreement or in determining any of the rights and obligations of the **Parties**.
- c. **Entire Agreement.** This Agreement constitutes the entire agreement of the **Parties** with respect to subject matter of this Agreement and supersedes any prior oral or written agreement, understanding, or representation relating to the subject matter of this Agreement.
- d. **Severability.** If any part of this Agreement is held, determined or adjudicated to be illegal, void, or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.
- e. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective **Parties**. No **Party** may assign its interests or obligations under this Agreement without written consent of the **Parties**, which shall not be unreasonably withheld or delayed.
- f. **Necessary Actions.** Each **Party** agrees to execute and deliver additional documents and instruments and to take any additional actions as may be reasonably required to carry out the purposes of this Agreement.

- g. Third Party Beneficiary. This Agreement shall not create any right or interest in any non-party or any member of the public as a third party beneficiary.
- h. Termination. This Agreement is terminated if **Muni** and/or **Western** do not provide funds necessary to implement this Agreement pursuant to Paragraphs 3. and 4., herein, or upon completion of Final Accounting.
- i. Written Notification. Written communication or notification as described in this Agreement shall be addressed as identified in Attachment II to this Agreement, and shall be deemed to have been duly given and received on the fifth day after (excluding holidays and Sundays) the notice document is either: (i) delivered personally to a **Party**, or sent by facsimile transmission or electronic mail to the address identified in Attachment II, and the addressed **Party** acknowledges in writing upon personal delivery, or by return facsimile transmission or electronic mail of receiving the document; (ii) mailed by an overnight mail/courier service, postage pre-paid and addressed to the **Party** as identified in Attachment II; (iii) mailed by first class mail, registered or certified, postage pre-paid, and addressed, as identified in Attachment II (“Notice”).
- j. Modification of Address. A **Party** may modify its address identified in Attachment II, and is responsible to ensure that the other **Parties** have received Notice of such change.
- k. Accounting Resolution. In the event that an accounting issue occurs among the **Parties**, the concerned **Party** shall advise **SBCFCD**, and other **Parties** in writing, accompanied with applicable documentation. **SBCFCD** shall address the issue within forty-five (45) days of written notification by one or more of the **Parties**. If in the opinion of a **Party** or **Parties**, the issue is not sufficiently addressed at that time, or thereafter through audit(s) of accounting books and records by one or more **Party** as provided for in Paragraph 4.d., herein, then said **Party/Parties** may request a ‘third party’ audit conducted by a third party audit firm, previously agreed to as an alternative auditor by the **Parties** at the time of execution of this Agreement. The requesting **Party/Parties** shall initially pay for the third party audit and audit report. If such audit determines an accounting error by a **Party** or **Parties**, then said **Party/Parties** shall correct payment(s) and/or reimbursement(s), as applicable. If the error is due to direct negligence, the responsible **Party** shall reimburse the **Party/Parties** that initially paid for the third party audit, within sixty (60) days after a Notice by the initially paying **Party/Parties**. If more than one **Party** is negligent, the audit cost will be reimbursed by the respective **Parties** based on their respective percent of the total correction required, within sixty (60) days Notice by the initially paying **Party/Parties**.

This Agreement may be executed in counterpart, which upon execution by all **Parties**, shall be considered to be effective as of the day and year of the last **Party**'s execution of the Agreement.

Attachment I – Miscellaneous Support Items For Reimbursement

Attachment II – Party Name and Address for Notices

RIVERSIDE COUNTY FLOOD CONTROL &
WATER CONSERVATION DISTRICT,
a body corporate and politic

BY: _____
Chair of the Board of Supervisors

COUNTY OF RIVERSIDE,

BY: _____
Chair of the Board of Supervisors

DATE: _____

SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT
HAS BEEN DELIVERED TO THE
CHAIR OF THE BOARD

APPROVED AS TO FORM:

Clerk of the Board of Supervisors of
County of Riverside, California

BY: _____ _____
Deputy Date

SAN BERNARDINO COUNTY FLOOD
CONTROL DISTRICT,
a body corporate and politic

BY: _____
Chair of the Board of Supervisors

COUNTY OF SAN BERNARDINO,

BY: _____
Chair of the Board of Supervisors

DATE: _____

SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT
HAS BEEN DELIVERED TO THE
CHAIR OF THE BOARD

APPROVED AS TO FORM:

Clerk of the Board of Supervisors of
County of San Bernardino, California

BY: _____ _____
Deputy Date

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

By: _____
Patrick Milligan
President, Board of Directors

WESTERN MUNICIPAL WATER DISTRICT OF RIVERSIDE COUNTY

By: _____
S. R. "Al" Lopez
President, Board of Directors

ATTACHMENT I

Reimbursable Expense Categories

The Water Agencies shall reimburse the SBCFCD, OCFCD and RCFC&WCD (collectively Local Sponsors) for the following types or categories of services and expenses, provided by Local Sponsors staff and/or Local Sponsors consultants, associated with the Study Update and related activities involving requirements for potential implementation of water conservation at Seven Oaks Dam:

1. Development, Coordination, and Communication Support

- a. Prepare, review, and process (for review/approval) agreement(s)/contract(s), memorandum(s) of understanding, 'communications protocol', policies and procedures;
- b. Travel/attend meetings, field trips;
- c. Involvement with general coordination and communication;
- d. Prepare and make presentations, respond to questions.

2. Preparation and Review Support

- a. Conduct, or contribute toward the completion of, Study Update task(s)/assignment(s);
- b. Review documents, reports;
- c. Conduct further or separate assessments and evaluations for review and comment purposes;
- d. Prepare written comments, edit

3. Other Support Services

- a. Accounting and audit services;
- b. Local Sponsors' respective County Counsel support, and contract attorney services (including expert witness services if necessary);
- c. General Overhead;
- d. Clerical services (to extent not covered/included in determination of General Overhead).

4. Other Reimbursable Items

- a. Travel (vehicle and gasoline use charges, bus, train or airplane tickets, hotel/motel rooms, and meals - when out of respective county);
- b. Communication (direct telephone, facsimile and other communications charges, not included in General Overhead);
- c. Reproduction/Duplicating Services (direct charges not included in General Overhead).

Attachment II

Names and Addresses of Parties to Agreement

SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT

San Bernardino County Flood Control District
Department of Public Works
825 East Third Street
San Bernardino, CA 92415-0835
(909) 387-7964
(909) 387-8043 FAX

RIVERSIDE COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT

Riverside County Flood Control District & Water Conservation District
1995 Market Street
Riverside, CA 92501
(951) 955-1200
(951) 788-9965 FAX
Attn: Senior Civil Engineer - Special Projects Section

ORANGE COUNTY FLOOD CONTROL DISTRICT

Orange County Flood Control District
Flood Control Division/Santa Ana River Project
P.O. Box 4048
Santa Ana, CA 92702-4048
(714) 834-5618
(714) 834-4572 FAX
Attn: Manager, SAR Project

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

San Bernardino Valley Municipal Water District
P.O. Box 5906
San Bernardino, CA 92412-5906
(909) 387-9222
(909) 387-9247 FAX
Attn: General Manager

WESTERN MUNICIPAL WATER DISTRICT OF RIVERSIDE COUNTY

Western Municipal Water District of Riverside County
450 Alessandro Boulevard
Riverside, CA 92508
(909) 789-5000
(909) 780-3837 FAX
Attn: General Manager

**MINUTES
OF
REGULAR BOARD MEETING
SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT**

October 18, 2006

Directors Present: Patrick Milligan, Ed Killgore, Steve Copelan and Mark Bulot

Directors Absent: George Aguilar

Staff Present: Robert Reiter, Randy Van Gelder, Sam Fuller, Bob Tincher, Bruce Varner, and Lillian Hernandez

Registered Guests:

Alan Dyer, West Valley Water District

Skip Wilson, East Valley Water District

Joe Calpino, Western Heights Water Company

Benjamin G. Kelly, Western Heights Water Company

Bob Martin, East Valley Water District

The regular meeting of the Board of Directors was called to order by President Milligan at 2:06 p.m. at the District office, 1350 South "E" Street, San Bernardino. The roll was called and a quorum was noted present.

Agenda Item 1. Public Comments.

President Milligan invited members of the public to address the Board. Hearing none, the meeting proceeded with the published agenda items.

Agenda Item 2. Approval of the Minutes of the Board Meeting, October 4, 2006.

Director Bulot moved to approve the minutes of the October 4, 2006, Board Meeting. Director Copelan seconded. The motion was unanimously adopted.

Agenda Item 3. Really Old (some might say, Ancient) Business

3 a) Wes Danskin Modeling Report Presentation. Wes Danskin presented Hydrology, Description of Computer Models, and Evaluation of Selected Water-Management Alternatives in the San Bernardino Area, California report that he co-authored along with Kelly R. McPherson, and Linda R. Woolfenden. SBVMWD began a relationship with Mr. Danskin and the USGS in 1988 to develop a computer model for use in the San Bernardino area. Mr. Danskin highlighted several items in the report for the Board. The Board received and filed Mr. Danskin's report. Mr. Danskin was presented with a cake to commemorate completion of the report.

Recess

At 2:58 p.m. President Milligan stated that the Board would take a short recess to celebrate completion of the report with Wes Danskin.

The meeting was reconvened at 3:17 p.m.

Agenda Item 4. Old Business

4 a) and 6 f) Update on Proposal from California Regional Water Quality Control Board Santa Ana Region – Initial Study and Negative Declaration and Issuance of General Waste Discharge Requirements for the Injection/Percolation of Imported State Project Water, Colorado River Water or Imported Well Water to Recharge Groundwater Management Zones within the Santa Ana Region – Resolution No. R8-2006-0042 and Order No. R8-2006-0005 and Watershed Salinity Management Workgroup. Director Bulot stated that the draft compact agreement was reviewed at the Watershed Salinity Management Workgroup meeting held on October 16th. There will be one to two additional meetings to revise the draft. Comments will be received and incorporated into the draft compact agreement. The next meeting date is yet to be determined.

Agenda Item 5. New Business

5 a) Consider Change of Date for December 6, 2006, Board Meeting. Bob Reiter stated that the 2006 ACWA Fall Conference is being held December 5-8, 2006, at the Disneyland Hotel in Anaheim and offered the Board the opportunity to consider changing its regular Board meeting date of December 6, 2006. After consideration, the Board elected to keep its regularly scheduled meeting date of December 6, 2006.

5 b) Agreement Among the Santa Ana River Mainstem Project Local Sponsors and San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County for Funding a Seven Oaks Dam Water Conservation Facility Report. Bob Reiter introduced the Agreement Among the Santa Ana River Mainstem Project Local Sponsors and San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County for Funding a Seven Oaks Dam Water Conservation Facility Report. This

agreement provides funding for completion of work on the Seven Oaks Dam water conservation feasibility report.

Director Bulot moved to notify the Army Corps of Engineers of SBVMWD's desire to receive changed recognition and to enter into the agreement. Director Copelan seconded. The motion was unanimously adopted.

Agenda Item 6. Reports (Discussion and Possible Action).

6 a) High Groundwater Mitigation Committee, October 9, 2006. Director Bulot reported that the dewatering wells are off due to the fact that water levels are not high enough to turn them on. The District is working with the City of Riverside to test the two new dewatering wells. The EPA approved supplemental scopes of work on the water quality database and modeling projects and the notices to proceed have been sent to the consultants. Geoscience reported that the groundwater model runs for the IRGMP are near completion. Director Bulot highlighted topics for the next meeting taking place on November 13, 2006.

6 b) San Bernardino Regional Water Resources Authority, October 10, 2006. Director Milligan reported that no official action was taken. The Lakes and Streams Committee meeting was not held due to a conflict with the EVWD 2006 Water Quality Conference taking place on the same date.

6 c) East Valley Water District 2006 Water Quality Conference, October 11-23, 2006. Bob Reiter and Director Killgore reported that they attended the conference and were impressed with the participation and topics discussed at the conference. Mr. Reiter attended a session on the Department of Defense's chemical use and handling compliance and their approach to compliance. He also attended a session on the new standards, protocols and certifications that testing labs need for testing some new water contaminants.

6 d) Integrated Regional Groundwater Management Plan Technical Advisory Group (TAG), October 16, 2006. Bob Tincher reported that the consultant gave a progress report on their work. The computer modeling will be complete by the end of October. The scenarios will be run and completed by the end of November. They have written some of the chapters of the report. The project is on its original schedule.

6 e) Association of the San Bernardino County Special Districts, October 16, 2006. Director Copelan reported that Jack Gualco of The Gualco Group was the guest speaker. His topic was *Sacramento – Through the Looking Glass of a Lobbyist*. He gave a brief overview of his activities and also discussed bond issues. The Board and Bob Reiter thanked Lillian Hernandez, Melissa Malin, and Amanda Aranda for their efforts in the planning and execution of the dinner.

6 f) Watershed Salinity Management Workgroup, October 16, 2006. Director Bulot reported on this item under item 4a.

6 g) SAWPA Commission, October 17, 2006.

Director Bulot reported on the following SAWPA matters:

- 1) The Commission met in closed session and interviewed three candidates for the general manager position. The Commission voted to negotiate with one candidate.
- 2) The Governance Workshop convened and discussed having one representative from each of the five agencies seated at the dais. The general managers from each agency would retain their position on the Technical Committee of General Managers and items will be brought forth to the Commission for action by SAWPA's general manager.
- 3) Postponed revised draft amendment to the SAWPA JPA.
- 4) The State Water Resources Control Board postponed their October 25th meeting regarding a potential penalty to SAWPA for filing late paperwork on SRF loans relating to the TVRI.
- 5) Adopted a resolution allowing the general manger to enter into an agreement to receive Proposition 40 grant award money.
- 6) Discussed SARI flow, BOD, and TSS charges. A workshop will be provided for the major dischargers to clarify charges.
- 7) Adopted a resolution appointing representatives to WRCWRA.

6 h) Operations Report.

Sam Fuller reported that a total of 14,176 acre-feet of water was delivered through the District system during the month of September 2006.

6 i) Treasurer's Report.

After discussion Director Bulot moved approval of the following expenses for the month of September 2006. The State Water Contract Fund \$3,843,232.00, Devil Canyon/Castaic Fund \$0.00, and General Fund \$2,548,214.84. Director Copelan seconded. The motion was adopted unanimously.

Agenda Item 7. Announcements.

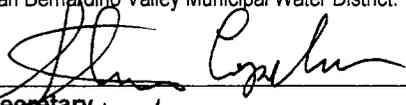
Bob Reiter introduced, and the Board welcomed, Doug Headrick, Steve Luhn, and Amanda Aranda as new employees to the District.

Agenda Item 8. Closed Session.

- A) Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9(a) – Name of Case: Center for Biological Diversity v. Local Agency Formation Commission of the County of San Bernardino – Case Number SCVSS 136990 (San Bernardino County Superior Court)
- B) Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9(a) – Name of Case: Alameda County Flood Control and Water Conservation District Zone 7 et al. v. State Department of Water Resources – Case Number 05-AS01775 (Sacramento Superior Court)
- C) Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9(a) – Name of Case: Water Right Applications Nos. 31165 and 31370 (Santa Ana River, San Bernardino County) (pending before the State Water Resources Control Board)
- D) Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(b) (1 Case)
- E) Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation Pursuant to Government Code Section 54956.9(c) (1 Case)
- F) Pursuant to Government Code Section 54957 – Public Employment – Position: General Manager

Pursuant to Government Code Section 54956.9 President Milligan returned the meeting to Open Session at 4:43 p.m. and reported that during Closed Session no reportable action was taken.

There being no further business, President Milligan adjourned the meeting at 4:44 p.m.

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| APPROVAL CERTIFICATION | |
| I hereby certify to approval of the foregoing Minutes of San Bernardino Valley Municipal Water District. | |
|  | |
| Secretary | _____ |
| Date | 11/01/06 |

Respectfully submitted,



**Lillian Hernandez
Board Secretary**