AGENDA

SOUTHEAST WATER COALITION

REGULAR MEETING OF THE ADMINISTRATIVE ENTITY

CITY OF SOUTH GATE
PUBLIC WORKS DEPARTMENT
SCADA ROOM
4244 SANTA ANA STREET
SOUTH GATE, CA 90280

THURSDAY, JANUARY 21, 2016
11:30 AM

1. ROLL CALL

2. PUBLIC COMMENTS

3. CONSENT CALENDAR

**Consent Calendar items will be considered and approved in one motion unless removed by an Administrative Entity Member for discussion.**

   a. SEWC ADMINISTRATIVE ENTITY MINUTES OF SEPTEMBER 17, 2015

      Recommendation: Approve minutes as submitted.

      **End of Consent Calendar**

4. RICHARDS, WATSON & GERSHON SB 88 MEMORANDUM
Adriana Figueroa, Chair, City of Norwalk
Recommendation: Update and discussion

5. DRAFT REQUEST FOR PROPOSAL FOR STRATEGIC PLANNING
   CONSULTANT SERVICES
Arturo Cervantes, Lead Agency, City of South Gate
6. **METROPOLITAN WATER DISTRICT / COUNTY SANITATION DISTRICT #2 OF LOS ANGELES COUNTY - POTENTIAL REGIONAL RECYCLED WATER SUPPLY PROGRAM**
   Adriana Figueroa, Chair, City of Norwalk
   Recommendation: Update and discussion

7. **REQUEST FOR PROPOSALS FOR ADMINISTRATIVE SERVICES**
   Arturo Cervantes, Lead Agency, City of South Gate
   Recommendation: Establish an Ad-hoc Committee to develop and issue a Request for Proposal for SEWC Administrative Services, and authorize the Ad-hoc Committee to rank proposals and interview consultants, and negotiate a fee with the highest ranked consultant for consideration by the AE.

8. **CALIFORNIA STATE ASSOCIATION OF COUNTIES LOCAL WATER INITIATIVE - THE CALIFORNIA CONSERVATION, FLOOD CONTROL AND STORMWATER MANAGEMENT ACT OF 2016**
   Adriana Figueroa, Chair, City of Norwalk
   Recommendation: Update and discussion

9. **FEBRUARY 18, 2016 BOARD OF DIRECTORS AGENDA**
   Kevin Sales, KJServices Environmental Consulting
   Recommendation: Consider Draft SEWC JPA Board of Directors Agenda

10. **WRITTEN COMMUNICATIONS**

11. **ADMINISTRATIVE ENTITY MEMBER COMMENTS**

**AMERICANS WITH DISABILITIES ACT:** In compliance with the Americans with Disabilities Act of 1990, the City of South Gate is committed to providing reasonable accommodations for a person with a disability. Please call Candice Espinoza with the City of South Gate at (323) 357-9661, if special accommodations are necessary and/or if information is needed in an alternative format. Special requests must be made in a reasonable amount of time in order that accommodations can be arranged.
The next meeting of the Southeast Water Coalition Administrative Entity will be on Thursday, March 17, 2016, 11:30 am, City of South Gate, Public Works Department, SCADA Room, 4244 Santa Ana St., South Gate, CA 90280.

I hereby certify, under penalty of perjury under the laws of the State of California, that the foregoing agenda was posted at South Gate City Hall and Leland R. Weaver Library, which are available for the public to view.

[Signature]
Arturo Cervantes
Director of Public Works/City Engineer

[Signature]

Date: 1/15/16
MINUTES OF THE
SOUTHEAST WATER COALITION
JOINT POWERS AUTHORITY
SPECIAL MEETING OF THE ADMINISTRATIVE ENTITY
CITY OF SOUTH GATE
PUBLIC WORKS DEPARTMENT
SCADA ROOM
4244 SANTA ANA STREET
SOUTH GATE, CA 90280

THURSDAY, SEPTEMBER 17, 2015
11:30 NOON

The special meeting of the Southeast Water Coalition Joint Powers Authority Administrative Entity was called to order at 11:37 a.m. by Chairman Adriana Figueroa (Norwalk). Roll call was taken with the following Administrative Entity members present:

1. ROLL CALL

Adriana Figueroa, Chairman City of Norwalk
Gina Nila City of Commerce
Scott Rigg City of Vernon
Jason Wen City of Lakewood
Charles Emig City of Cerritos
Chris Cash City of Paramount
Gladis Deras City of Pico Rivera
Frank Beach City of Santa Fe Springs
Art Cervantes City of South Gate

Others in Attendance
Candice Espinoza City of South Gate
Aliah Meza KJServices Environmental Consulting

2. PUBLIC COMMENTS
No Public Comments were received.

3. CONSENT CALENDAR
The minutes for the July 16, 2015 meeting of the Administrative Entity were reviewed, moved for approval by Mrs. Nila (Commerce), and seconded by Mr.
Cervantes (South Gate). With abstentions by Mr. Beach (Santa Fe Springs), the motion was approved unanimously by voice vote.

4. CHANGE OF THE MEETING TIME FOR THE ADMINISTRATIVE ENTITY
Chairman Figueroa (Norwalk) provided an overview of the Item. With the conflict of time for some AE members who are also on the Lower San Gabriel River Watershed committee which is held in Lakewood at 1:15 pm, the recommendation was to hold the AE meetings earlier. Therefore, changing the AE meeting time from 12:00 noon to 11:30 am.

Mr. Emig (Cerritos) expressed concern with how the Background section of the Item was written and suggested editing the first paragraph, specifically the last sentence.

Chairman Figueroa suggested rewriting the last sentence of the first paragraph in the Background section of Item to read as follows: "As a consequence of the challenge of getting to Lakewood on time, it has become necessary to hold the AE meeting earlier moving forward."

Chairman Figueroa called for a vote on the approval of the change in AE meeting time with the correction in the Background section of the Item. A motion was made by Mr. Cash (Paramount) and seconded by Mr. Beach (Santa Fe Springs). The motion was approved by a unanimous voice vote of the Administrative Entity members.

5. CONSIDERTION OF THE DRAFT FISCAL YEAR 2013-2014 SEWC AUDIT
Mr. Cervantes presented the draft SEWC audit for Fiscal Year 2013-3014 to the AE members and opened for any comments.

Mr. Cervantes discussed Attachment 3, the draft management letter regarding interest received and noted the delay in audit due to change over of lead agency and management.

Ms. Deras (Pico Rivera) made a motion for approval of draft, which was seconded by Mr. Rigg (Vernon). The motion was approved by a unanimous voice vote of the Administrative Entity members.

6. AUTHORIZATION TO RETAIN AN AUDIT FIRM TO ADMINISTER THE SEWC FINANCIAL AUDIT FOR FISCAL YEAR 2014-2015
Mr. Cervantes introduced the Item to retain White Nelson Diehl Evans, LLP (WNDE) as the audit firm for Fiscal Year 2014-2015. This year WNDE’s fee proposal revealed an increase of $100, with a total cost of $3,300 to administer the annual audit. No Request for Proposal (RFP) will be release; instead a sole source contract will be awarded to WNDE.
Mrs. Nila asked if possible to authorize a multi year contract. Mr. Cash stated that typically the firm chosen to administer the SEWC annual audit is the firm that services the lead agency. Therefore, the company may change depending on the lead agency’s auditing firm.

Mr. Cervantes commented that WNDE is not the firm that services the City of South Gate, the lead agency, however continues to recommend WNDE to administer the annual audit because of their past experience working with SEWC.

Following discussion, a motion was made by Mrs. Nila for approval and was seconded by Ms. Deras. The motion was approved by a unanimous voice vote of the Administrative Entity members.

7. SB 385 – CHROMIUM-6 COMPLIANCE UPDATE
Chairman Figueroa presented an overview of the Item. The California Senate passed SB 385 (Hueso) on August 24, 2015 by a 39-0 vote.

SB 385 is related to the compliance with California’s chromium-6 drinking water standard. The bill does not change the requirement to comply with the standard, it would simply provide a limited period of time for a water system to work toward achieving compliance without being deemed in violation as long as strict safeguards are met.

The item was received and filed by the Administrative Entity.

8. GOALS AND OBJECTIVES FOR FY 2015-2016
Mr. Cervantes updated the AE members on the proposed Goals and Objectives for FY 2015-2016.

At the June 4, 2015 meeting two new Goals and Objectives were added to the list for FY 2015-2016:

- Evaluate how grant funding opportunities align with SEWC Goals and Objectives with a goal of securing funds to implement projects within the SEWC region.
- Identify opportunities to protect and enhance water quality within the SEWC region through infrastructure, projects, policies, or programs.

Mr. Cervantes stated the SEWC Board of Directors approved the allocation of $50,000 to the development of a Vision Plan/Strategic Plan for SEWC. He opened for comments to AE members on how they see SEWEC moving forward.

Mr. Cash expressed his concern of SEWC’s goals. He stated that SEWC should not overlap with other groups, instead SEWC should find where there is a need and assess how to fill that gap.
Chairman Figueroa stated that one of SEWC's strengths is that we have elected officials, which makes SEWC stand out from other groups.

Mr. Cervantes suggested conducting a visioning exercise with the Board to identify goals. While, Mr. Cash proposed beginning the visioning exercise with the AE members instead of the Board.

The AE members discussed what form the strategic plan should take and what sort of programs and projects should be included. Possible programs and Projects include potable water infrastructure, wells, infiltration of storm water runoff, and the increased use of recycled water for groundwater recharge.

The AE members agreed that the first step in moving forward is to develop a scope of work and Request of Proposals (RFP) for the development of the strategic plan and then move forward with identifying a consultant to guide the process.

9. LEGISLATIVE UPDATE
Chairman Figueroa provided the AE with a brief update on several water-related legislative bills.

Among the bills that were discussed were:

**AB 1 (Brown) - Drought: Local governments: fines**
Status - 7/13/15 - signed by the Governor and Chaptered into Law.

Would prohibit a city, county, or city and county from imposing a fine under any local maintenance ordinance or other relevant ordinance for failure to water a lawn or having a brown lawn during a period for which the Governor has issued a proclamation of a state of emergency based on drought conditions.

This bill will prevent cities and counties from fining their residents who choose to conserve water by not watering their lawns when the Governor declares a drought emergency.

**AB 149 (Chavez) - Urban Water Management Plans**
Status - 7/6/15 - signed by the Governor and Chaptered into Law.

The Urban Water Management Planning Act requires an urban water supplier to submit to the Department of Water Resources a copy of its plan no later than 30 days after adoption and requires the department to prepare and submit to the Legislature, on or before December 31, in the years ending in 6 and 1, a report summarizing the status of plans adopted pursuant to the act. This bill would require each urban water supplier to update and submit its 2020 plan to the department by July 1, 2021, and would require the department to submit the

**AB 603 (Salas) Income taxes: turf removal tax credit**  
**Status - 5/28/15 - Hold under submission in Assembly Appropriations Committee.**

Would, under Personal Income Tax Law and Corporate Tax Law, for taxable years beginning on and after January 1, 2015, allow a credit to a taxpayer participating in a lawn replacement program, as defined, in an amount equal to $2 per square foot of conventional lawn removed from the taxpayer's property. The bill would make findings and declarations in this regard. This bill contains other related provisions.

**AB 617 (Perea) Groundwater**  
**Status - 9/17/15 - enrolled on Monday, September 14, 2015**

Would revise the definition of "groundwater recharge" for the purpose of the Sustainable Groundwater Management Act to permit inclusion of in-lieu recharge through delivery of water to persons that otherwise extract groundwater, leaving groundwater in the basin. This bill contains other related provisions and other existing laws.

The bill is sponsored by Valley Ag Water Coalition and would authorize a combination of one or more local agencies and one or more mutual water companies to form a GSA through a JPA.

**AB 656 (Garcia, Cristina) Joint powers agreements: mutual water companies**  
**Status - 9/3/15 - signed by the Governor and Chaptered into Law.**

Current law authorizes local public entities, as defined, to enter into a joint powers agreement for the purposes of providing risk-pooling, as specified. This bill would specifically authorize 2 or more mutual water companies, or 2 or more mutual water companies and one or more public agencies that operate a public water system, to participate in joint powers agreement for risk-pooling, technical support, and other similar services.

This bill is sponsored by the Mutual Water Company Association and will allow them to form a JPA to pool together for insurance purposes.

**AB 723 (Rendon) - Rental property: plumbing fixtures: replacement**  
**Status - 9/17/15 – failed in Senate Committee**
Would require the lease of a single-family residential real property or any portion of a multifamily residential real property or commercial real property that is entered into, renewed, or amended after January 1, 2016, to contain a provision in which the property owner states his or her responsibility to replace all noncompliant plumbing fixtures with water-conserving plumbing fixtures on or before January 1, 2017, or January 1, 2019, respectively. The bill would authorize any party, including a city, county, or water supplier to enforce that lease provision.

AB 937 (Salas) Groundwater planning: technical assistance: disadvantaged communities
Would require the Department of Water Resources to provide technical assistance to disadvantaged communities so that they may participate in groundwater planning, including, but not limited to, plans for regional groundwater banking, with any county or local agency.

AB 1128 (Jones-Sawyer) Water Conservation
Status - 3/2/15 - First reading an Assembly - no further activity.
Current law declares the intent of the Legislature to, among other things, promote urban water conservation standards that are consistent with the California Urban Water Conservation Council's adopted best management practices and specified requirements for demand management. The bill would make nonsubstantive changes to these findings and declarations.

AB 1139 (Campos) Personal income taxes: credit: turf removal
Status - 5/4/15 - Assembly Committee hearing cancelled by author.
The Personal Income Tax Law allows various credits against taxes imposed by that law. This bill would, for taxable years beginning on and after January 1, 2015, allow a credit to a taxpayer participating in a lawn replacement program, as defined, in an amount equal to $2 per square foot for conventional lawn removed from the taxpayer's property, up to $50,000 per taxable year, as provided. The bill would make findings and declarations in this regard.

SB 7 (Wolk) Housing: water meters: multiunit structures
Status - 9/4/15 - Third Reading at Assembly Committee.
Would express the intent of the Legislature to encourage the conservation of water in multifamily residential rental buildings through means either within the landlord's or the tenant's control, and to ensure that the practices involving the submetering of dwelling units for water service are just and reasonable, and

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include appropriate safeguards for both tenants and landlords. This bill contains other related provisions and other existing laws.

This legislative proposal has been introduced in the last 2 legislative sessions, without success. Senator Wolk and her staff are trying to iron out all the issues. The water industry has supported these efforts and the apartment associations have opposed.

**SB 20 (Pavley) Wells: reports: public availability**  
**Status - 8/26/15 - Re-referred to Assembly Water, Parks and Wildlife Committee.**  

Current law requires a person who digs, bores, or drills a water well, cathodic protection well, or monitoring well, or abandons or destroys a well, or deepens or reperforates a well, to file a report of completion with the Department of Water Resources. Current law prohibits those reports from being made available to the public, except under certain circumstances. This bill would instead require the department to, upon request, make the reports available to the public. The bill would require the department to provide specified disclaimers when providing the reports to the public.

**SB 385 (Hueso) Primary drinking water standards: hexavalent chromium: compliance plan**  
**Status - 9/4/15 - signed by the Governor and Chaptered into Law.**

Would authorize, until January 1, 2020, the State Water Resources Control Board, at the request of a public water system that prepares and submits a compliance plan to the state board, to grant a period of time to achieve compliance with the primary drinking water standard for hexavalent chromium by approving the compliance plan, as prescribed. This bill would require a public water system to provide specific notice regarding the compliance plan to its customers and the public water system to send written status reports to the state board.

This bill is sponsored by ACWA and creates a process for public water systems to work toward compliance with the new hexavalent chromium MCL over a 5 year period.

**SB 485 (Hernandez) County of Los Angeles: sanitation districts**  
**Status - 9/3/15 - Enrolled and presented to the Governor for signature.**

The County Sanitation District Act authorizes a sanitation district to acquire, construct, and complete certain works, property, or structures necessary or convenient for sewage collection, treatment, and disposal. This bill would authorize specified sanitation districts in the County of Los Angeles, to acquire,
construct, operate, maintain, and furnish facilities for the diversion, management, and treatment of stormwater and dry weather runoff, the discharge of water to the stormwater drainage system, and the beneficial use of the water. The bill contains other provisions.

**SB 552 (Wolk) Public water systems: disadvantaged communities: drinking water standards**
Status - 7/9/15 - Referred to Assembly Rules Committee.

Would require, by January 1, 2017, the State Water Resources Control Board to develop a report identifying specific funding and enforcement mechanisms necessary to ensure that disadvantaged communities have water systems that are in compliance with state and federal drinking water standards. The bill would require the report to identify specific legislative and administrative actions necessary to bring disadvantaged communities into compliance with safe drinking water standards.

**SB 555 (Wolk) Urban retail water suppliers: water loss management**
Status - 9/4/15 - Passed Assembly and Senate - submitted to Governor for signature.

Would require each urban retail water supplier, on or before July 1, 2017, and annually each year thereafter, to submit a completed and validated water loss audit report for the previous calendar year as prescribed by rules adopted by the Department of Water Resources on or before January 1, 2017, and updated as provided. The bill would require the department to post all validated water loss audit reports on its internet web site in a manner that allows for comparisons across water suppliers and to make these reports available for public viewing. This bill would require the department to provide technical assistance to guide urban retail water suppliers' water loss detection programs. The bill would require the department, in consultation with the State Water Resources Control Board, to develop metrics for reporting year-over-year progress on water loss reduction and would require the board to adopt rules requiring urban retail water suppliers to meet performance standards for the volume of water losses.

The author states that SB 555 aims to achieve effective water loss control and contribute to California’s water management, climate mitigation and climate adaption goals by requiring urban retail water suppliers to conduct annual water loss audits.

10. **OCTOBER 1, 2015 BOARD OF DIRECTORS AGENDA**
The agenda was discussed for the SEWC Board of Directors' meeting of August 6, 2015. It was agreed that the following items would be included on the Board of Directors' meeting agenda:
11. WRITTEN COMMUNICATIONS
No written communications were received.

12. ADMINISTRATIVE ENTITY MEMBER COMMENTS
Several AE members made comments on a number of issues.

Ms. Deras opened for discussion the NPDES Notice of Intent (NOI) deadline. To which, Mr. Beach (Santa Fe Springs) responded that his NOI was rejected due to insufficient maps.

Mr. Emig stated that City of Cerritos’ NOI was approved and has received a permit.

Mr. Beach reflected on SB88 effective June 24, 2015 allowing the State Water Resources Control Board to require certain water systems that consistently fail to provide safe drinking water to consolidate with, or receive an extension of service from, another public water system.

Chairman Figueroa suggested having legal counsel, Mr. James Markman of Richards Watson Gershon, provide a review SB88 and advise on any impacts the law will have on SEWC member agencies.

Administrative Entity members discussed their conservation goals and conservation figures for the last few months.

12. ADJOURNMENT
The meeting adjourned at 12:35 p.m.

__________________________________________
CHAIRMAN

ATTEST:

__________________________________________

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SOUTHEAST WATER COALITION
JOINT POWERS AUTHORITY
AGENDA REPORT

Date: January 21, 2016
To: Southeast Water Coalition Administrative Entity
From: Adriana Figueroa, Chair, City of Norwalk

Subject: Richards, Watson & Gershon SB 88 Memorandum

Recommendation: Update and discussion.

Discussion

SEWC Administrative Entity Chair Adriana Figueroa (City of Norwalk) posed a question to the JPA's attorneys at Richards, Watson & Gershon (RWG) regarding what impact the passage and the Governor's signing of SB 88 would have on local municipal water purveyors. The text that follows as well as the attached memo from RWG summarizes the bill's impact on local water utilities.

SB 88 authorizes the consolidation of public water systems, or state small water systems only in certain “disadvantaged communities.” These disadvantaged communities must either be within unincorporated areas, or areas served by a mutual water company to be subject to SB 88. Thus, under SB 88, only those water systems that service disadvantaged communities that are within unincorporated areas, or are served by a mutual water company may be ordered to consolidate by the Control Board.

SB 88 also authorizes the Control Board to order the interim extension of service to an area that does not have an adequate supply of safe drinking water in preparation for consolidation with a receiving water system.

Attachment(s):
1. Richards, Watson & Geshon SB 88 memo.
2. Senate Bill No. 88
MEMORANDUM

TO: James L. Markman; Steven L. Flower
FROM: Patrick D. Skahan
DATE: November 4, 2015
SUBJECT: Senate Bill 88

I. QUESTION PRESENTED

On June 24, 2015, Governor Brown approved SB 88, which codified certain statutes into state law, including Health and Safety Code section 116680, et seq.¹ SB 88 gives the State Water Resources Control Board (“Control Board”) the authority to order public and state small water systems within disadvantaged communities to consolidate into a single receiving water system. In addition, the Control Board may order an extension of service to certain areas that do not have access to an adequate supply of safe drinking water. (§116682(a).) What are the requirements under, and implications of, SB 88?

II. SHORT ANSWERS

SB 88 authorizes the consolidation of public water systems, or state small water systems only in certain “disadvantaged communities.” These disadvantaged communities must either be within unincorporated areas, or areas served by a mutual water company to be subject to SB 88. Thus, under SB 88, only those water systems that service disadvantaged communities that are within unincorporated areas, or are served by a mutual water company may be ordered to consolidate by the Control Board.

SB 88 also authorizes the Control Board to order the interim extension of service to an area that does not have an adequate supply of safe drinking water in preparation for consolidation with a receiving water system.

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¹ All subsequent references are to the Health and Safety Code unless otherwise indicated.
III. ANALYSIS

SB 88 makes various statutory changes for water and drought relief. Its intent is to authorize the Control Board “to require water systems that are serving disadvantaged communities with unreliable and unsafe drinking water to consolidate with or receive service from public water systems with safe, reliable, and adequate drinking water.” (Id.)

SB 88 includes a legislative finding that, “the logical formation, consolidation, and operation of water systems is an important factor in promoting orderly development ...” (§ 116680, subd. (a)), and that the powers set forth “for consolidation of water systems are consistent with the intent of promoting orderly growth.” (§ 116680, subd. (b)).

Under section 116682, the Control Board may order consolidation of a public water system or a state small water system that consistently fails to provide an adequate supply of safe drinking water within a disadvantaged community. “Disadvantaged communities” are defined by reference to Water Code section 79505.5 as a community with an annual median household income that is less than 80 percent of the statewide annual median household income. (§ 116681(f).) Under SB 88 only those disadvantaged communities that are located in unincorporated areas or served by a mutual water company may be subject to water service consolidation. (§ 116682(a).) In addition, the Control Board is authorized to order an extension of service to areas that do not have access to an adequate supply of safe drinking water through any physical or operational infrastructure as an “interim extension” of service. (Id.)

The Control Board must take several actions before ordering consolidation, including among other things, holding at least one public meeting, and establishing a deadline of no less than six months, “unless a shorter period is justified”, for the receiving water system and the subsumed water system to negotiate consolidation. (§ 116682(b).)

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2 See Senate Third Reading, SB 88 (6/17/15). Available at: http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml (last viewed November 4, 2015.)
3 Although SB 88 does not define the terms “public water system” or “state small water system”, it appears to extend to privately owned water systems. (See § 116682(e)(3).)
SB 88 requires the Control Board to make seven findings before ultimately ordering water service consolidation or the extension of service, as follows:

1. The Control Board must find that the public water system or state small water system to be subsumed “has consistently failed to provide an adequate supply of safe drinking water” to the disadvantaged community;

2. All reasonable efforts to negotiate consolidation or extension of service were made;

3. Consolidation of the receiving water system and subsumed water system or extension of service is appropriate and technically and economically feasible;

4. There is no pending local agency formation commission process that is likely to resolve the problem in a reasonable amount of time;

5. Concerns regarding water rights and water contracts of the subsumed and receiving water systems have been adequately addressed;

6. Consolidation or extension of service is the most effective and cost-effective means to provide an adequate supply of safe drinking water;

7. The capacity of the proposed interconnection needed to accomplish the consolidation is limited to serving the current consumers of the subsumed water system.

(§ 116682, subd. (d).)

Once the Control Board orders consolidation or extension of service, it must take four further required actions:

1. Make funds available “as necessary and appropriate” to the receiving water system for the costs of completing the consolidation or extension of service,
including costs for replacing any lost capacity as a result of consolidation or extension, providing additional capacity needed, and legal fees;

2. Ensure payment of local agency formation commission fees caused by Control Board ordered consolidation or extension of service;

3. Adequately compensate the owners of a privately owned subsumed water system for the fair market value of the system, as determined by the Public Utilities Commission for water corporations subject to the commission’s jurisdiction, or the Control Board “for all other water systems.”

4. Coordinate with the appropriate local agency formation commission and other relevant local agencies to facilitate the change of organization and reorganization.

(§ 116682, subd. (e).)

SB 88 includes limitations on increased charges on existing customers arising “solely as a consequence of the consolidation or extension of service unless the customers receive a corresponding benefit.” (§ 116682, subd. (f).) In addition, section 5600 et seq. of the Government Code (relating to public bonds) does not apply to any consolidation or extension of service ordered by the Control Board. (§ 116682, subd. (g).) Last, section 116684 provides for limitations on the liabilities of any consolidated water system, wholesaler, or any other agency “in the chain of distribution” that delivers water to a consolidated water system.

IV. CONCLUSION

SB 88 reflects the Legislature’s intent to authorize consolidation or extensions of services as a remedy for consistently inadequate or unsafe water supplies to certain disadvantaged communities. The bill vests the Control Board with authority to require water systems that are serving disadvantaged communities with unreliable and unsafe drinking water to consolidate with or receive service from public water systems in order to furnish safe, reliable, and adequate drinking water. Only disadvantaged communities that are within unincorporated areas, or serviced by mutual water companies are within the scope of the statutes.
Senate Bill No. 88

CHAPTER 27

An act to add Sections 116680, 116681, 116682, and 116684 to the Health and Safety Code, to add and repeal Sections 21080.08, 21080.45, and 21080.46 of the Public Resources Code, and to amend Sections 375, 375.5, 377, 1058.5, 1552, 1846, 5103, and 5104 of, to add Sections 377.5, 79708.5, and 79716.5 to, and to add Article 3 (commencing with Section 1840) to Chapter 12 of Part 2 of Division 2 of, the Water Code, relating to water, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 24, 2015. Filed with Secretary of State June 24, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 88, Committee on Budget and Fiscal Review. Water.

(1) Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems, and imposes on the State Water Resources Control Board various responsibilities and duties. Existing law requires the state board to conduct research, studies, and demonstration projects relating to the provision of a dependable, safe supply of drinking water, to adopt regulations to implement the California Safe Drinking Water Act, and to enforce provisions of the Federal Safe Drinking Water Act. Existing law prohibits a person from operating a public water system unless the person first submits an application to the state board and receives a permit issued by the state board, as specified.

This bill would authorize the state board to order consolidation with a receiving water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. This bill would authorize the state board to order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. The bill would require the state board, prior to ordering consolidation or extension of service, to conduct an initial public meeting and a public hearing and to make specified findings. The bill would limit the liability of a consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, as specified.

(2) Existing law, the California Environmental Quality Act (CEQA), requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project
will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA exempts certain projects from its requirements.

This bill would, until January 1, 2017, or a specified date, whichever is earlier, exempt from CEQA certain groundwater replenishment projects.

This bill would, until July 1, 2017, exempt from CEQA the development and approval of building standards by state agencies for recycled water systems.

This bill would, with specified exceptions and until July 1, 2017, or a specified date, whichever is later, exempt from CEQA the adoption of an ordinance to impose stricter conditions on the issuance of well permits or changes in the intensity of land use that would increase demand on groundwater.

(3) The California Constitution declares that the general welfare of the state requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, and that the right to the use of water does not extend to the waste or unreasonable use, method of use, or method of diversion of water. Existing law requires the state board to take all appropriate proceedings or actions to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water in this state. Existing law states the intent of the Legislature that the state take vigorous action to enforce the terms and conditions of permits, licenses, certifications, and registrations to appropriate water, to enforce state board orders and decisions, and to prevent the unlawful diversion of water.

This bill would, commencing January 1, 2016, require a person who diverts 10 acre-feet of water per year or more under a permit or license to install and maintain a device or employ a method capable of measuring the rate of direct diversion, rate of collection to storage, and rate of withdrawal or release from storage, as specified, and with certain exceptions. This bill would require the permittee or licensee to maintain a record of all diversion monitoring and the total amount of water diverted and submit these records to the state board, as prescribed. This bill would require a person who diverts water under a registration, permit, or license to report to the state board, at least annually. This bill would authorize the state board to adopt regulations requiring measurement and reporting of water diversion and use by specified persons and would require that the initial regulations be adopted as emergency regulations and that these emergency regulations remain in effect until revised by the state board. This bill would exempt from CEQA the adoption of the initial regulations by the state board.

(4) Existing law authorizes a person or entity in violation of a term or condition of a permit, license, certificate, or registration issued by, an order adopted by, or certain emergency regulations adopted by, the state board to
be civilly liable for an amount not to exceed $500 for each day in which the
violation occurs.

This bill would expand this civil liability to any violation of any regulation
adopted by the state board.

Existing law makes this civil liability applicable only in a critically dry
year immediately preceded by 2 or more consecutive below normal, dry,
or critically dry years or during a period for which the Governor has issued
a proclamation of a state of emergency based on drought conditions.

This bill would eliminate this requirement.

(5) Existing law, with certain exceptions, requires each person who
diverts water after December 31, 1965, to file with the state board a statement
of diversion and use, and to include specified information. Existing law
requires supplemental statements of diversion and use to be filed at 3-year
intervals prior to July 1 of the year next succeeding the end of each interval,
and requires, if there is a change in the name or address of the person
diverting water, a supplemental statement be filed with the state board that
includes the change. Existing law provides that the making of a material
misstatement in connection with these provisions is a misdemeanor
punishable as prescribed.

This bill would require supplemental statements of diversion and use to
be filed annually prior to July 1, as provided. By expanding the definition
of a crime, this bill would impose a state-mandated local program.

Existing law requires each statement of diversion and use, on and after
January 1, 2012, to include monthly records of water diversions using best
available technologies and best professional practices. Existing law prohibits
this requirement from being construed to require the implementation of
technologies or practices by a person who provides to the state board
documentation demonstrating that the implementation of those practices is
not locally cost effective.

This bill would require each statement to include at least monthly records
of water diversions and would eliminate the above-described prohibition.

(6) Under existing law, emergency regulations of the state board are not
subject to review by the Office of Administrative Law if the state board
adopts findings that the emergency regulations are adopted to prevent the
waste, unreasonable use, unreasonable method of use, or unreasonable
method of diversion, of water to promote wastewater reclamation, or to
promote water conservation, and that the emergency regulations are adopted
in response to conditions which exist, or are threatened, in a critically dry
year immediately preceded by 2 or more consecutive dry or critically dry
years. Under existing law, a person who violates an emergency regulation
adopted by the state board pursuant to these provisions or violates certain
cease and desist orders relating to the enforcement of water rights may be
liable for specified amounts. Revenues generated from these penalties are
deposited into the Water Rights Fund, which are available, upon
appropriation, for specified purposes.

This bill would require that a civil liability imposed for a violation of an
emergency conservation regulation, as defined, that is adopted pursuant to
these provisions, or a violation of a cease and desist order of that emergency conservation regulation, be deposited, and separately accounted for, in the Water Rights Fund. The bill would require those funds to be available, upon appropriation by the Legislature, for water conservation activities and programs.

(7) Existing law authorizes any public entity, as defined, that supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity to, by ordinance or resolution, adopt and enforce a water conservation program to reduce the quantity of water used for the purpose of conserving the water supplies of the public entity. Existing law provides that a violation of a requirement of a water conservation program is a misdemeanor punishable by imprisonment in the county jail for not more than 30 days, or by a fine not exceeding $1,000, or both.

This bill would provide that a court or public entity may hold a person civilly liable in an amount not to exceed $10,000 for a violation of a water conservation program ordinance or resolution, or certain emergency regulations adopted by the state board. This bill would prohibit the civil liability assessed by a court or public entity for the first violation by a residential water user from exceeding $1,000, except as specified. This bill would provide that commencing on the 31st day after the public entity has notified the person of the violation, the person additionally may be civilly liable for an amount not to exceed $10,000 plus $500 for each additional day on which the violation continues. This bill would require civil liability imposed pursuant to these provisions to be paid to the public entity and to be expended solely for the purposes of the water conservation program. In addition to these remedies, this bill would authorize a public entity to enforce water use limitations by a volumetric penalty in an amount established by the public entity.

(8) Existing law, the Water Quality, Supply, and Infrastructure Improvement Act of 2014, approved by the voters as Proposition I at the November 4, 2014, statewide general election, authorizes the issuance of general obligation bonds in the amount of $7,545,000,000 to finance a water quality, supply, and infrastructure improvement program. The act requires each state agency that receives an appropriation from the funding made available by the act to administer a competitive grant or loan program under the act’s provisions to develop and adopt project solicitation and evaluation guidelines before disbursing the grants or loans. The act requires the Secretary of the Natural Resources Agency to publish and post on the Natural Resources Agency’s Internet Web site a list of expenditures pursuant to the act not less than annually, as prescribed, and to post on that Internet Web site the guidelines submitted by state agencies and the secretary’s verification that the guidelines are consistent with applicable statutes and the purposes of the act.

This bill would require the secretary to post on the Natural Resources Agency’s Internet Web site information on changes to project timelines and project spending, in order to facilitate oversight of funding and projects.
The act requires each state agency that receives an appropriation of funding made available by the act to be responsible for establishing metrics of success and reporting the status of projects and all uses of the funding on the state's bond accountability Internet Web site.

This bill would require each state agency that receives an appropriation of funding made available by the act to evaluate the outcomes of projects, report this evaluation on the state's bond accountability Internet Web site, and to hold a grantee of funds accountable for completing projects funded by the act on time and within scope.

(9) The bond act provides that the sum of $810,000,000 is to be available, upon appropriation by the Legislature, for expenditures on, and competitive grants and loans to, projects that are included in and implemented in an adopted integrated regional water management plan and respond to climate change and contribute to regional water security. The bond act authorizes the use of $100,000,000 of those funds for direct expenditures, and for grants and loans, for certain water conservation and water use efficiency plans, projects, and programs. Existing law establishes the CalSave Water Use Efficiency Revolving Fund and provides that the moneys in the fund are available to the Department of Water Resources, upon appropriation by the Legislature, for the purpose of water use efficiency projects. Existing law requires moneys in the fund to be used for purposes that include, but are not limited to, at or below market interest rate loans to local agencies, as defined, and permits the department to enter into agreements with local agencies that provide water or recycled water service to provide loans.

Existing law transferred to the fund the sum of $10,000,000 of the proceeds of these bonds for water conservation and water use efficiency projects and programs to achieve urban water use targets. Existing law requires the department to use $5,000,000 for a pilot project for local agencies to provide water efficiency upgrades to eligible residents and requires the department to use the other $5,000,000 for local agencies to provide low-interest loans to customers to finance the installation of onsite improvements to repair or replace, as necessary, cracked or leaking water pipes to conserve water.

This bill would appropriate the sum of $10,000,000 available in the fund from the proceeds of the bond act for the purpose of these provisions.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(11) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.
The people of the State of California do enact as follows:

SECTION 1. Section 116680 is added to the Health and Safety Code, to read:

116680. The Legislature finds and declares as follows:
(a) It is the policy of the state to encourage orderly growth and development, which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation, consolidation, and operation of water systems is an important factor in promoting orderly development and in balancing that development against sometimes competing state interests of discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending other government services. Therefore, the policy of the state should be affected by the logical formation, consolidation, and operation of water systems.
(b) The powers set forth in Section 116682 for consolidation of water systems are consistent with the intent of promoting orderly growth.

SEC. 2. Section 116681 is added to the Health and Safety Code, to read:

116681. The following definitions shall apply to this section and Sections 116682 and 116684:
(a) "Adequate supply" means sufficient water to meet residents' health and safety needs.
(b) "Affected residence" means a residence reliant on a water supply that is either inadequate or unsafe.
(c) "Consistently fails" means a failure to provide an adequate supply of safe drinking water.
(d) "Consolidated water system" means the public water system resulting from the consolidation of a public water system with another public water system, state small water system, or affected residences not served by a public water system.
(e) "Consolidation" means joining two or more public water systems, state small water systems, or affected residences not served by a public water system, into a single public water system.
(f) "Disadvantaged community" means a disadvantaged community, as defined in Section 79505.5 of the Water Code, that is in an unincorporated area or is served by a mutual water company.
(g) "Extension of service" means the provision of service through any physical or operational infrastructure arrangement other than consolidation.
(h) "Receiving water system" means the public water system that provides service to a subsumed water system through consolidation or extension of service.
(i) "Safe drinking water" means water that meets all primary and secondary drinking water standards.
(j) "Subsumed water system" means the public water system, state small water system, or affected residences not served by a public water system consolidated into or receiving service from the receiving water system.

SEC. 3. Section 116682 is added to the Health and Safety Code, to read:
116682. (a) Where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water, the State Water Resources Control Board may order consolidation with a receiving water system as provided in this section and Section 116684. The consolidation may be physical or operational. The State Water Resources Control Board may also order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. The State Water Resources Control Board may set timelines and performance measures to facilitate completion of consolidation.

(b) Prior to ordering consolidation or extension of service as provided in this section, the State Water Resources Control Board shall do all of the following:

1. Encourage voluntary consolidation or extension of service.
2. Consider other enforcement remedies specified in this article.
3. Consult with, and fully consider input from, the relevant local agency formation commission regarding the provision of water service in the affected area, the recommendations for improving service in a municipal service review, and any other relevant information.
4. Consult with, and fully consider input from, the Public Utilities Commission when the consolidation would involve a water corporation subject to the commission's jurisdiction.
5. Consult with, and fully consider input from, the local government with land use planning authority over the affected area, particularly regarding any information in the general plan required by Section 65302.10 of the Government Code.
6. Notify the potentially receiving water system and the potentially subsumed water system, if any, and establish a reasonable deadline of no less than six months, unless a shorter period is justified, for the potentially receiving water system and the potentially subsumed water system, if any, to negotiate consolidation or another means of providing an adequate supply of safe drinking water.

(A) During this period, the State Water Resources Control Board shall provide technical assistance and work with the potentially receiving water system and the potentially subsumed water system to develop a financing package that benefits both the receiving water system and the subsumed water system.

(B) Upon a showing of good cause, the deadline may be extended by the State Water Resources Control Board at the request of the potentially receiving water system, potentially subsumed water system, or the local agency formation commission with jurisdiction over the potentially subsumed water system.

7. Obtain written consent from any domestic well owner for consolidation or extension of service. Any affected resident within the consolidation or extended service area who does not provide written consent shall be ineligible, until the consent is provided, for any future water-related
grant funding from the state other than funding to mitigate a well failure, disaster, or other emergency.

(8) Hold at least one public meeting at the initiation of this process in a place as close as feasible to the affected areas. The State Water Resources Control Board shall make reasonable efforts to provide a 30-day notice of the meeting to the ratepayers, renters, and property owners to receive water service through service extension or in the area of the subsumed water system and all affected local government agencies and drinking water service providers. The meeting shall provide representatives of the potentially subsumed water system, affected ratepayers, renters, property owners, and the potentially receiving water system an opportunity to present testimony. The meeting shall provide an opportunity for public comment.

(c) Upon expiration of the deadline set by the State Water Resources Control Board pursuant to paragraph (b) of subdivision (b), the State Water Resources Control Board shall do the following:

(1) Consult with the potentially receiving water system and the potentially subsumed water system, if any.

(2) Conduct a public hearing, in a location as close as feasible to the affected communities.

(A) The State Water Resources Control Board shall make reasonable efforts to provide a 30-day notice of the hearing to the ratepayers, renters, and property owners to receive water service through service extension or in the area of the subsumed water system and to all affected local government agencies and drinking water service providers.

(B) The hearing shall provide representatives of the potentially subsumed water system, affected ratepayers, renters, property owners, and the potentially receiving water system an opportunity to present testimony.

(C) The hearing shall provide an opportunity for public comment.

(d) Prior to ordering consolidation or extension of service, the State Water Resources Control Board shall find all of the following:

(1) The potentially subsumed water system has consistently failed to provide an adequate supply of safe drinking water.

(2) All reasonable efforts to negotiate consolidation or extension of service were made.

(3) Consolidation of the receiving water system and subsumed water system or extension of service is appropriate and technically and economically feasible.

(4) There is no pending local agency formation commission process that is likely to resolve the problem in a reasonable amount of time.

(5) Concerns regarding water rights and water contracts of the subsumed and receiving water systems have been adequately addressed.

(6) Consolidation or extension of service is the most effective and cost-effective means to provide an adequate supply of safe drinking water.

(7) The capacity of the proposed interconnection needed to accomplish the consolidation is limited to serving the current customers of the subsumed water system.
(e) Upon ordering consolidation or extension of service, the State Water Resources Control Board shall do all of the following:

(1) As necessary and appropriate, make funds available, upon appropriation by the Legislature, to the receiving water system for the costs of completing the consolidation or extension of service, including, but not limited to, replacing any capacity lost as a result of the consolidation or extension of service, providing additional capacity needed as a result of the consolidation or extension of service, and legal fees. Funding pursuant to this paragraph is available for the general purpose of providing financial assistance for the infrastructure needed for the consolidation or extension of service and does not need to be specific to each individual consolidation project. The State Water Resources Control Board shall provide appropriate financial assistance for the infrastructure needed for the consolidation or extension of service. The State Water Resources Control Board's existing financial assistance guidelines and policies shall be the basis for the financial assistance.

(2) Ensure payment of standard local agency formation commission fees caused by State Water Resources Control Board-ordered consolidation or extension of service.

(3) Adequately compensate the owners of a privately owned subsumed water system for the fair market value of the system as determined by the Public Utilities Commission for water corporations subject to the commission's jurisdiction or the State Water Resources Control Board for all other water systems.

(4) Coordinate with the appropriate local agency formation commission and other relevant local agencies to facilitate the change of organization or reorganization.

(f) For the purposes of this section, the consolidated water system shall not increase charges on existing customers of the receiving water system solely as a consequence of the consolidation or extension of service unless the customers receive a corresponding benefit.

(g) Division 3 (commencing with Section 56000) of Title 5 of the Government Code shall not apply to the consolidation or extension of service required pursuant to this section.

SEC. 4. Section 116684 is added to the Health and Safety Code, to read:

116684. (a) Liability of a consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system shall be limited as described in this section.

(b) (1) The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or those who consumed water provided through the subsumed water system concerning the operation and supply of water from the subsumed water system during the interim operation period specified in subdivision (d) for any good faith, reasonable effort using ordinary care to assume possession of, to operate, or to supply water to the subsumed water system.
(2) The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or by those who consumed water provided through the subsumed water system for any injury that occurred prior to the commencement of the interim operation period specified in subdivision (d).

(c) (1) The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or by those who consumed water provided through the subsumed water system concerning the provision of supplemental imported water supplies to the subsumed water system during the interim operation period specified in subdivision (d) for any good faith, reasonable effort using ordinary care to supply water to the subsumed water system.

(2) The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or by those who consumed water provided through the subsumed water system concerning the operation and supply of water from the subsumed water system for any injury that occurred prior to the commencement of the interim operation period specified in subdivision (d).

(3) This subdivision shall only apply if the water supplied by the consolidated water system through a temporary potable service pipeline to the subsumed water system meets or exceeds federal and state drinking water quality standards.

(d) (1) The interim operation period shall commence upon the connection of a temporary potable service pipeline by the consolidated water system to the subsumed water system, or upon the execution of an agreement between the consolidated water system, subsumed water system, and any other signatories to provide service to the customers of the subsumed water system, whichever occurs first.

(2) (A) Except as provided in subparagraph (B), the interim operation period shall last until permanent replacement facilities are accepted by the consolidated water system with the concurrence of the State Water Resources Control Board and the facilities and water supply meet drinking water and water quality standards.

(B) Upon the showing of good cause, the interim operation period shall be extended by the State Water Resources Control Board for up to three successive one-year periods at the request of the consolidated water system.

(3) The acceptance date of permanent replacement facilities shall be publicly noticed by the consolidated water system.

(e) Division (b) shall only apply if the consolidated water system provides water to the subsumed water system in accordance with all of the following conditions:

(1) Water provided by the consolidated water system through a temporary potable service pipeline to the subsumed water system shall meet or exceed federal and state drinking water quality standards.
(2) Reasonable water system flow and pressure through a temporary potable service pipeline shall be maintained during the interim operation period based upon the condition and integrity of the existing subserved water system, and any disruptions to water delivery resulting from construction-related activities associated with the installation of permanent replacement facilities shall be minimal.

(3) The consolidated water system shall notify fire officials serving the subserved water system service area of the condition and firefighting support capabilities of the subserved water system and planned improvements with the installation of permanent replacement facilities thereto. The consolidated water system shall maintain or improve the condition and firefighting support capabilities of the subserved water system during the interim operation period.

(4) Customers of the subserved water system shall receive written notice upon any change in possession, control, or operation of the water system.

(f) Nothing in this section shall be construed to do any of the following:

(1) Relieve any water district, water wholesaler, or any other entity from complying with any provision of federal or state law pertaining to drinking water quality.

(2) Impair any cause of action by the Attorney General, a district attorney, a city attorney, or any other public prosecutor, or impair any other action or proceeding brought by or on behalf of a regulatory agency.

(3) Impair any claim alleging the taking of property without compensation within the meaning of either the Fifth Amendment to the United States Constitution or Section 19 of Article I of the California Constitution.

SEC. 5. The Legislature finds and declares all of the following:

(a) Section 7 of Article XI of the California Constitution authorizes a county or city to “make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.”

(b) The California Supreme Court has held that local regulations affecting economic interests in property are within local governments’ police power (Birkenfeld v. City of Berkeley (1976) 17 Cal.3d 129, 158).

(c) Counties may reasonably regulate land use under their police powers (Associated Home Builders etc., Inc., v. City of Livermore (1976) 18 Cal.3d 582).

(d) Counties may regulate groundwater, including well permitting, under their police powers (Baldwin v. County of Tehama (1994) 31 Cal.App.4th 166, 175-76), and numerous counties have exercised this authority through ordinances.

(e) The Legislature enacted the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code) to ensure that local agencies manage their high- and medium-priority groundwater basins sustainably. That act does not require the adoption of local groundwater sustainability plans until 2020 or 2022. Under the act, counties retain their authority to issue well permits.
(f) As local agencies are transitioning to the implementation of the Sustainable Groundwater Management Act, unregulated well permitting in stressed high- and medium-priority groundwater basins during the ongoing drought emergency is causing risks to the health, safety, and well-being of citizens.

SEC. 6. Section 21080.08 is added to the Public Resources Code, to read:

21080.08. (a) This division does not apply to a project that satisfies both of the following:

(1) The project is approved or carried out by a public agency for the purpose of mitigating drought conditions for which a state of emergency was proclaimed by the Governor on January 17, 2014, pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(2) The project consists of construction or expansion of recycled water pipeline and directly related infrastructure within existing rights of way, and directly related groundwater replenishment, if the project does not affect wetlands or sensitive habitat, and where the construction impacts are fully mitigated consistent with applicable law.

(b) This section shall remain operative until the state of emergency due to drought conditions declared by the Governor in the proclamation issued on January 17, 2014, has expired or until January 1, 2017, whichever occurs first, and as of January 1, 2017, is repealed unless a subsequent statute amends or repeals that date.

SEC. 7. Section 21080.45 is added to the Public Resources Code, to read:

21080.45. (a) This division does not apply to the development and approval of building standards by state agencies for recycled water systems.

(b) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 21080.46 is added to the Public Resources Code, to read:

21080.46. (a) Without limiting any other statutory exemption or categorical exemption, this division does not apply to the adoption of an ordinance by a city, county, or city and county to limit or prohibit the drilling of new or deeper groundwater wells, or to limit or prohibit increased extractions from existing groundwater wells, through stricter conditions on the issuance of well permits or changes in the intensity of land use that would increase demand on groundwater.

(b)(1) This section shall remain operative until July 1, 2017, or so long as the state of emergency due to drought conditions declared by the Governor in the proclamation of a state of emergency issued on January 17, 2014, remains in effect, whichever is later.

(2) This section is repealed on January 1 of the year following the date on which this section becomes inoperative.
(c) Notwithstanding subdivision (a) or (b), this section does not apply to either of the following:

(1) The issuance of any permit for a new or deeper groundwater well by a city, county, or city and county.

(2) The adoption of any ordinance affecting or relating to new residential, commercial, institutional, or industrial projects or any mix of these uses, or any change in the intensity or use of land for these purposes, if that project or change in use requires approval by a city, county, or city and county. Nor does this section apply to the adoption of any ordinance that would limit or prohibit new or deeper groundwater wells, or increased extraction from existing groundwater wells, that may be needed to serve these projects.

SEC. 9. Section 375 of the Water Code is amended to read:

375. (a) Notwithstanding any other law, any public entity that supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity may, by ordinance or resolution adopted by a majority of the members of the governing body after holding a public hearing upon notice and making appropriate findings of necessity for the adoption of a water conservation program, adopt and enforce a water conservation program to reduce the quantity of water used by those persons for the purpose of conserving the water supplies of the public entity.

(b) With regard to water delivered for other than agricultural uses, the ordinance or resolution may specifically require the installation of water-saving devices that are designed to reduce water consumption. The ordinance or resolution may also encourage water conservation through rate structure design.

(c) For the purposes of this chapter, “public entity” means a city, whether general law or chartered, county, city and county, special district, agency, authority, any other municipal public corporation or district, or any other political subdivision of the state.

(d) For the purposes of this section and subdivisions (b) and (c) of Section 377, “person” means any person, firm, association, organization, partnership, business, trust, corporation, company, or public agency, including any city, county, city and county, district, joint powers authority, or any agency or department of a public agency.

SEC. 10. Section 375.5 of the Water Code is amended to read:

375.5. (a) A public entity may undertake water conservation and public education programs in conjunction with school districts, public libraries, or any other public entity.

(b) (1) A public entity may undertake water conservation and public education programs using an information booklet or materials for use in connection with the use or transfer of real estate containing up to four residential units. For the purposes of this subdivision, the public entity may use water conservation materials prepared by the department.

(2) It is the intent of the Legislature that on or before December 31, 2007, a review of the program be conducted to obtain information on both of the following matters:
(A) The extent to which public entities have undertaken water conservation and public education programs referred to in paragraph (1).

(B) The extent to which water conservation may be attributable to the implementation of water conservation and public education programs referred to in paragraph (1).

(c) A public entity may take into account any programs undertaken pursuant to this section in a rate structure design implemented pursuant to Section 375.

(d) The Legislature finds and declares that a program undertaken pursuant to this section is in the public interest, serves a public purpose, and will promote the health, welfare, and safety of the people of the state.

SEC. 11. Section 377 of the Water Code is amended to read:

377. (a) From and after the publication or posting of any ordinance or resolution pursuant to Section 376, violation of a requirement of a water conservation program adopted pursuant to Section 376 is a misdemeanor. A person convicted under this subdivision shall be punished by imprisonment in the county jail for not more than 30 days, or by fine not exceeding one thousand dollars ($1,000), or by both.

(b) A court or public entity may hold a person civilly liable in an amount not to exceed ten thousand dollars ($10,000) for a violation of any of the following:

(1) An ordinance or resolution adopted pursuant to Section 376.

(2) An emergency regulation adopted by the board under Section 1058.5, unless the board regulation provides that it cannot be enforced under this section.

(c) Commencing on the 31st day after the public entity notified a person of a violation described in subdivision (b), the person additionally may be civilly liable in an amount not to exceed ten thousand dollars ($10,000) plus five hundred dollars ($500) for each additional day on which the violation continues.

(d) Remedies prescribed in this section are cumulative and not alternative, except that no liability shall be recoverable under this section for any violation of paragraph (2) of subdivision (b) if the board has filed a complaint pursuant to Section 1846 alleging the same violation.

(e) A public entity may administratively impose the civil liability described in subdivisions (b) and (c) after providing notice and an opportunity for a hearing. The public entity shall initiate a proceeding under this subdivision by a complaint issued pursuant to Section 377.5. The public entity shall issue the complaint at least 30 days before the hearing on the complaint and the complaint shall state the basis for the proposed civil liability order.

(f) (1) In determining the amount of civil liability to assess, a court or public entity shall take into consideration all relevant circumstances, including, but not limited to, the nature and persistence of the violation, the extent of the harm caused by the violation, the length of time over which the violation occurs, and any corrective action taken by the violator.
(2) The civil liability calculated pursuant to paragraph (1) for the first violation of subdivision (b) by a residential water user shall not exceed one thousand dollars ($1,000) except in extraordinary situations where the court or public entity finds all of the following:
(A) The residential user had actual notice of the requirement found to be violated.
(B) The conduct was intentional.
(C) The amount of water involved was substantial.
(g) Civil liability imposed pursuant to this section shall be paid to the public entity and expended solely for the purposes of this chapter.
(h) An order setting administrative civil liability shall become effective and final upon issuance of the order and payment shall be made. Judicial review of any final order shall be pursuant to Section 1094.5 of the Code of Civil Procedure.
(i) In addition to the remedies prescribed in this section, a public entity may enforce water use limitations established by an ordinance or resolution adopted pursuant to this chapter, or as otherwise authorized by law, by a volumetric penalty in an amount established by the public entity.
SEC. 12. Section 377.5 is added to the Water Code, to read:
377.5. (a) A complaint or citation under subdivision (b) of Section 377 or subdivision (d) of Section 1058.5 may be issued by any of the following:
(1) A code enforcement officer, as defined in Section 829.5 of the Penal Code.
(2) A designee of the chief executive officer of a public entity authorized to adopt an ordinance or resolution under Section 375.
(3) A designee of the chief executive officer of a city, county, or city and county.
(b) For purposes of this section, the term "chief executive officer" includes a city manager, general manager, or other employee of the public entity who is the highest ranking officer or employee, other than a member of a multimember governing body, with responsibility for the operations of the public entity.
SEC. 13. Section 1058.5 of the Water Code is amended to read:
1058.5. (a) This section applies to any emergency regulation adopted by the board for which the board makes both of the following findings:
(1) The emergency regulation is adopted to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports.
(2) The emergency regulation is adopted in response to conditions which exist, or are threatened, in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7
(commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions.

(b) Notwithstanding Sections 11346.1 and 11349.6 of the Government Code, any findings of emergency adopted by the board, in connection with the adoption of an emergency regulation under this section, are not subject to review by the Office of Administrative Law.

(c) An emergency regulation adopted by the board under this section may remain in effect for up to 270 days, as determined by the board, and is deemed repealed immediately upon a finding by the board that due to changed conditions it is no longer necessary for the regulation to remain in effect. An emergency regulation adopted by the board under this section may be renewed if the board determines that the conditions specified in paragraph (2) of subdivision (a) are still in effect.

(d) In addition to any other applicable civil or criminal penalties, any person or entity who violates a regulation adopted by the board pursuant to this section is guilty of an infraction punishable by a fine of up to five hundred dollars ($500) for each day in which the violation occurs.

(e) (1) Notwithstanding subdivision (b) of Section 1551, subdivision (d) of Section 1845, and subdivision (f) of Section 1846, a civil liability imposed under Chapter 12 (commencing with Section 1825) of Part 2 of Division 2 by the board or a court for a violation of an emergency conservation regulation adopted pursuant to this section shall be deposited, and separately accounted for, in the Water Rights Fund. Funds deposited in accordance with this subdivision shall be available, upon appropriation, for water conservation activities and programs.

(2) For purposes of this subdivision, an "emergency conservation regulation" means an emergency regulation that requires an end user of water, a water retailer, or a water wholesaler to conserve water or report to the board on water conservation. Water conservation includes restrictions or limitations on particular uses of water or a reduction in the amount of water used or served, but does not include curtailment of diversions when water is not available under the diverter's priority of right or reporting requirements related to curtailments.

SEC. 14. Section 1552 of the Water Code is amended to read:

1552. Except as provided in subdivision (e) of Section 1058.5, moneys in the Water Rights Fund are available for expenditure, upon appropriation by the Legislature, for the following purposes:

(a) For expenditure by the State Board of Equalization in the administration of this chapter and the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code) in connection with any fee or expense subject to this chapter.

(b) For the payment of refunds, pursuant to Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code, of fees or expenses collected pursuant to this chapter.

(c) For expenditure by the board for the purposes of carrying out this division, Division 1 (commencing with Section 100), Part 2 (commencing with Section 10500) and Chapter 11 (commencing with Section 10735) of
Part 2.74 of Division 6, and Article 7 (commencing with Section 13550) of Chapter 7 of Division 7.

(d) For expenditures by the board for the purposes of carrying out Sections 13160 and 13160.1 in connection with activities involving hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission.

(e) For expenditures by the board for the purposes of carrying out Sections 13140 and 13170 in connection with plans and policies that address the diversion or use of water.

SEC. 15. Article 3 (commencing with Section 1840) is added to Chapter 2 of Part 2 of Division 2 of the Water Code, to read:

Article 3. Monitoring and Reporting

1840. (a) (1) Except as provided in subdivision (b), a person who, on or after January 1, 2016, diverts 10 acre-feet of water per year or more under a permit or license shall install and maintain a device or employ a method capable of measuring the rate of direct diversion, rate of collection to storage, and rate of withdrawal or release from storage. The measurements shall be made using the best available technologies and best professional practices, as defined in Section 5100, using a device or methods satisfactory to the board, as follows:

(A) A device shall be capable of continuous monitoring of the rate and quantity of water diverted and shall be properly maintained. The permittee or licensee shall provide the board with evidence that the device has been installed with the first report submitted after installation of the device. The permittee or licensee shall provide the board with evidence demonstrating that the device is functioning properly as part of the reports submitted at five-year intervals after the report documenting installation of the device, or upon request of the board.

(B) In developing regulations pursuant to Section 1841, the board shall consider devices and methods that provide accurate measurement of the total amount diverted and the rate of diversion. The board shall consider devices and methods that provide accurate measurements within an acceptable range of error, including the following:

(i) Electricity records dedicated to a pump and recent pump test.
(ii) Staff gage calibrated with an acceptable streamflow rating curve.
(iii) Staff gage calibrated for a flume or weir.
(iv) Staff gage calibrated with an acceptable storage capacity curve.
(v) Pressure transducer and acceptable storage capacity curve.

(2) The permittee or licensee shall maintain a record of all diversion monitoring that includes the date, time, and diversion rate at time intervals of one hour or less, and the total amount of water diverted. These records shall be included with reports submitted under the permit or license, as required under subdivision (e), or upon request of the board.
(h) (1) The board may modify the requirements of subdivision (a) upon finding either of the following:

(A) That strict compliance is infeasible, is unreasonably expensive, would unreasonably affect public trust uses, or would result in the waste or unreasonable use of water.

(B) That the need for monitoring and reporting is adequately addressed by other conditions of the permit or license.

(2) The board may increase the 10-acre-foot reporting threshold of subdivision (a) in a watershed or subwatershed, after considering the diversion reporting threshold in relation to quantity of water within the watershed or subwatershed. The board may increase the 10-acre-foot reporting threshold to 25 acre-feet or above if it finds that the benefits of the additional information within the watershed or subwatershed are substantially outweighed by the cost of installing measuring devices or employing methods for measurement for diversions at the 10-acre-foot threshold.

(c) At least annually, a person who diverts water under a registration, permit, or license shall report to the board the following information:

(1) The quantity of water diverted by month.

(2) The maximum rate of diversion by months in the preceding calendar year.

(3) The information required by subdivision (a), if applicable.

(d) Compliance with the applicable requirements of this section is a condition of every registration, permit, or license.

1841. (a) The board may adopt regulations requiring measurement and reporting of water diversion and use by either of the following:

(1) Persons authorized to appropriate water under a permit, license, registration for small domestic, small irrigation, or livestock stockpond use, or certification for livestock stockpond use.

(2) Persons required to comply with measurement and reporting regulations pursuant to subparagraph (B) of paragraph (1) of subdivision (e) of Section 5103.

(b) The initial regulations that the board adopts pursuant to this section shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of the initial regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted under this section shall remain in effect until revised by the board.

(c) The adoption of the initial regulations pursuant to this article is exempt from Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 16. Section 1846 of the Water Code is amended to read:
1846. (a) A person or entity may be liable for a violation of any of the following in an amount not to exceed five hundred dollars ($500) for each day in which the violation occurs:
   (1) A term or condition of a permit, license, certificate, or registration issued under this division.
   (2) A regulation or order adopted by the board.
   (b) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.
   (c) Civil liability may be imposed administratively by the board pursuant to Section 1055.
   (d) In determining the appropriate amount of civil liability, the court, pursuant to subdivision (b), or the board, pursuant to subdivision (c), may take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.
   (e) No liability shall be recoverable under this section for any violation for which liability is recovered under Section 1052.
   (f) All funds recovered pursuant to this section shall be deposited in the Water Rights Fund established pursuant to Section 1550.

SEC. 17. Section 5103 of the Water Code is amended to read:
5103. Each statement shall be prepared on a form provided by the board. The statement shall include all of the following information:
   (a) The name and address of the person who diverted water and of the person filing the statement.
   (b) The name of the stream or other source from which water was diverted, and the name of the next major stream or other body of water to which the source is tributary.
   (c) The place of diversion. The location of the diversion works shall be depicted on a specific United States Geological Survey topographic map, or shall be identified using the California Coordinate System, or latitude and longitude measurements. If assigned, the public land description to the nearest 40-acre subdivision and the assessor's parcel number shall also be provided.
   (d) The capacity of the diversion works and of the storage reservoir, if any, and the months in which water was used during the preceding calendar year.
   (e) (1) (A) At least monthly records of water diversions. The measurements of the diversion shall be made in accordance with Section 1840.
       (B) (i) On and after July 1, 2016, the measurement of a diversion of 10 acre-feet or more per year shall comply with regulations adopted by the board pursuant to Article 3 (commencing with Section 1840) of Chapter 12 of Part 2.
       (ii) The requirement of clause (i) is extended to January 1, 2017, for any statement filer that enters into a voluntary agreement that is acceptable to
the board to reduce the statement filer's diversions during the 2015 irrigation season.

(2) (A) The terms of, and eligibility for, any grant or loan awarded or administered by the department, the board, or the California Bay-Delta Authority on behalf of a person that is subject to paragraph (1) shall be conditioned on compliance with that paragraph.

(B) Notwithstanding subparagraph (A), the board may determine that a person is eligible for a grant or loan even though the person is not complying with paragraph (1), if both of the following apply:

(i) The board determines that the grant or loan will assist the grantee or loan recipient in complying with paragraph (1).

(ii) The person has submitted to the board a one-year schedule for complying with paragraph (1).

(C) It is the intent of the Legislature that the requirements of this subdivision shall complement and not affect the scope of authority granted to the board by provisions of law other than this article.

(f) The purpose of use.

(g) A general description of the area in which the water was used. The location of the place of use shall be depicted on a specific United States Geological Survey topographic map and on any other maps with identifiable landmarks. If assigned, the public land description to the nearest 40-acre subdivision and the assessor's parcel number shall also be provided.

(h) The year in which the diversion was commenced as near as is known.

SEC. 18. Section 5104 of the Water Code is amended to read:

5104. (a) Supplemental statements shall be filed annually, before July 1 of each year. They shall contain the quantity of water diverted and the rate of diversion by months in the preceding calendar year and any change in the other information contained in the preceding statement.

(b) If there is a change in the name or address of the person diverting the water, a supplemental statement shall be filed with the board that includes the change in name or address.

(c) A supplemental statement filed prior to July 1, 2016, shall include data satisfying the requirements of subdivision (a) for any diversion of water in the 2012, 2013, and 2014 calendar years, that was not reported in a supplemental statement submitted prior to July 1, 2015.

(d) This section does not limit the authority of the board to require additional information or more frequent reporting under any other law.

SEC. 19. Section 79708.5 is added to the Water Code, to read:

79708.5. In addition to the information required pursuant to Section 79708, in order to facilitate oversight of funding and projects, the secretary shall post on the Natural Resources Agency's Internet Web site information on changes to project timelines and project spending.

SEC. 20. Section 79716.5 is added to the Water Code, to read:

79716.5. Each state agency that receives an appropriation of funding made available by this division shall do the following:

(a) Evaluate the outcomes of projects funded by this division.
(b) Include in the agency’s reporting pursuant to Section 79716 the evaluation described in subdivision (a).

(c) Hold a grantee of funds accountable for completing projects funded by this division on time and within scope.

SEC. 21. The sum of ten million dollars ($10,000,000) available in the CalConserv Water Use Efficiency Revolving Fund from the proceeds of bonds issued pursuant to Division 26.7 (commencing with Section 79700) of the Water Code, is hereby appropriated for the purpose of Section 81023 of the Water Code.

SEC. 22. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 23. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.
SOUTHEAST WATER COALITION
JOINT POWERS AUTHORITY
AGENDA REPORT

Date: January 21, 2016
To: Southeast Water Coalition Administrative Entity
From: Arturo Cervantes, Lead Agency, City of South Gate

Subject: Draft Request for Proposals for a Strategic Planning Consultant Services

Recommendation: That the Administrative Entity take the following actions:

1. Establish an Ad-hoc Committee to review and establish a consensus on the Draft RFP, attached herewith as Attachment No. 1, which is necessary to secure a strategic planning consultant;

2. Authorize the Ad-hoc Committee to issue the RFP to the list of identified potential consultants attached herewith as Attachment No. 2.

3. Authorize the Ad-hoc Committee to rank proposals and interview consultants, and negotiate a fee with the highest ranked consultant for consideration by the AE.

Discussion
Over the past year both the SEWC Policy Board and the Administrative Entity have expressed a desire for the organization to begin to develop a more regional focus and address its core water issues as a single, unified entity rather than on a city-by-city basis. This desire was confirmed as a part of the approval of the 2015/2016 SEWC Goals and Objectives which included the following goals:

- Identify opportunities to protect and enhance water quality within the SEWC region through infrastructure, projects, policies, or programs.

- Evaluate how grant funding opportunities align with SEWC Goals and Objectives with a goal of securing funds to implement projects within the SEWC region.

At the Board Meeting, it was stated that SEWC should expand their focus to look for opportunities to develop regional water quality projects that could be implemented as funding sources become available. This would enable SEWC to leverage the clout of its eleven member cities to develop and implement programs that would be beneficial to the entire region. These regional programs could include projects related to drinking water production and quality; storm water capture and infiltration; and ground water recharge.

ITEM NO. 5
There is consensus in the Administrative Entity to procure a strategic planning consultant that could help in the development of a vision, and the preparation of a strategic planning to begin implemental the goals and objectives approved.

The goal of this RFP is to guide SEWC in its selection of a qualified consultant to identify that regional focus and develop a strategic guidance plan to move SEWC toward being a more effective regional organization.

Key areas identified for regional programs and projects include:
- Drought relief / water conservation
- New technology water meters
- Well development, maintenance, pumping and storage infrastructure
- Storm water capture and infiltration
- Drinking water production and water quality
- Groundwater recharge including recycled water recharge
- Support for, and as necessary, developing and sponsoring water-related legislation
- Support of the Water Replenishment District's GRIP Project

**FISCAL IMPACT** – The project has a budget of $50,000.

**Attachment(s):**
1. Draft RFP Strategic Planning Consultant Services
2. List of Potential Strategic Planning Consultants
3. Approved 2015/2016 SEWC Goals and Objectives
January 15, 2016

Subject: Request for Proposals (RFP) for Strategic Planning Consultant

Dear Prospective Consultant:

The Southeast Water Coalition (SEWC) is requesting proposals from qualified consultants to provide professional services to design and facilitate a strategic plan process for SEWC. The plan will articulate SEWC’s vision / mission and include the goals, objectives and action steps that will guide the coalition.

To be considered, consultants must submit a proposal indicating their knowledge and experience in developing similar plans. The selected consultant must have at least five years of continuous service in providing the requested services. The Project Manager must have a thorough knowledge and proficiency in the services requested.

Submit four (4) copies of the proposals marked “SOUTHEAST WATER COALITION STRATEGIC PLANNING CONSULTANT” via mail or delivered to:

City of South Gate - City Clerk’s Office
Attn: Arturo Cervantes, P.E.,
Director of Public Works/City Engineer
8650 California Avenue
South Gate, CA 90280

Submission Deadline: March 16, 2016 at 5:00 p.m.

For questions, please contact Candice Espinoza, City of South Gate Assistant Engineer, by phone at (323) 357-9661 or by email at cespinoza@sogate.org.

Sincerely,

Arturo Cervantes, P.E.
Lead Agency, City of South Gate
REQUEST FOR PROPOSALS FOR

STRATEGIC PLANNING CONSULTANT

All questions regarding this project are to be directed to:

Candice Espinoza
Assistant Engineer
Office: (323) 357-9661
cespinoza@sogate.org

OCTOBER 2015
# Table of Contents

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Attachment A – Sample Professional Services Agreement (Federal)
INTRODUCTION

The Southeast Water Coalition is requesting proposals from qualified consulting firms or other entities to provide professional services to design and facilitate a strategic planning process. This RFP solicits proposals from consultants with experience in the strategic planning process in order to make informed and deliberate decisions about future goals and activities.

PROJECT DESCRIPTION

The Southeast Water Coalition (SEWC) Joint Powers Authority is seeking consultant services for the development of a strategic plan based on the goals to:

- Maintain groundwater quality in the Central Basin;
- Maintain secure groundwater supplies;
- Manage the use of groundwater in the Central Basin;
- Coordinate efforts among the Watermaster and entities proposing to store water within the Central Basin for future recovery;
- Facilitate the implementation of conjunctive use program by water purveyors;
- Coordinate efforts among local entities and the Watermaster to devise and implement strategies to safeguard groundwater quality; and
- Work cooperatively with the Watermaster, the Water Replenishment District of Southern California, and other entities to promote coordination of policies and activities throughout the region.

The project has a budget of $50,000

BACKGROUND

The Southeast Water Coalition Joint Powers (SEWC) was established in 1991 and has been active in preventing the contamination of the Central Groundwater Basin from migrating contaminated groundwater from the superfund sites. The SEWC membership consists of the cities of Cerritos, Commerce, Downey, Lakewood, Norwalk, Paramount, Pico Rivera, Santa Fe Springs, South Gate, Vernon, and Whittier. The SEWC mission also includes advocating for responsible water resource policies that will ensure the availability of reliable, quality, and affordable water to local water purveyors. The retail water agencies serving SEWC member cities are responsible for serving safe and reliable drinking water to a total population of 670,000 in a service area of 93+ square miles.

The Southeast Water Coalition is comprised of two organizational entities, the Policy Board and the Administrative Entity. The Policy Board is made up of one representative from each of the member cities. The Policy Board members are all elected officials. The Policy Board meets six times per year in even-numbered months.

The Administrative Entity (AE) is comprised of one staff-level member from each of the represented cities. The AE meets six times per year in odd-numbered months.
Over the past year both the SEWC Policy Board and the AE members have expressed a desire for the organization to begin to develop a more regional focus and address its core water issues as a single, unified entity rather than on a city-by-city basis. The goal of this RFP is to guide SEWC in its selection of a qualified consultant to identify that regional focus and develop a strategic guidance plan to move SEWC toward being a more effective regional organization.

Key areas identified for regional programs and projects include:
- Drought relief / water conservation
- New technology water meters
- Well development, maintenance, pumping and storage infrastructure
- Storm water capture and infiltration
- Drinking water production and water quality
- Groundwater recharge including recycled water recharge
- Support for, and as necessary, developing and sponsoring water-related legislation
- Support of the Water Replenishment District's GRIP Project

SCOPE OF SERVICES

The following scope of services is intended as a guide only; additional services may be required which are not listed below, but need to be completed. The Southeast Water Coalition will make its selection based on the criteria as presented in the RFP page 5.

SCOPE OF WORK

The plan will articulate SEWC’s vision / mission and include the goals, objectives and action steps that will guide the coalition. Some of the questions we want to address are as follows:

- What should be the Southeast Water Coalition’s areas of strategic focus?
- What types of future programs and projects are considered by members to be essential?
- What partnerships can/should be developed?
- What services can be delivered more efficiently and more economically?
- Are there new areas of programming that should be considered?
- How will funding priorities be set?
- Are there new funding opportunities and/or new funding streams available?
- What regional groundwater quality and/or groundwater supply projects can be identified and how can these projects be made "ready to go" once funding sources are identified and secured?
- How can SEWC best leverage the clout of its member cities to identify and develop successful water related projects?
- What sources of project funding are available and how can SEWC best pursue those funds?
- What similar needs and requirements face all the member cities and how can SEWC best address those needs via regional projects and programs?
- How can SEWC ensure that its efforts are not overlapping the efforts of other local water agencies or groups? SEWC needs to identify the area where its strengths can best fit the need and effectively meet them.
• Are there certain programs and projects that SEWC can most effectively lead due to the fact that its Policy Board is made up of elected officials from cities throughout the Central Basin?

DELIBERABLES

A final strategic plan document must include the following in detail:

• Strategic areas of focus and program and project priorities
• Goals and objectives to meet priorities
• Services and programs (both current and new) that will support goals, including partnerships with other organizations
• Possible new funding streams

PROPOSAL REQUIREMENTS

The consolidated proposal (Proposal) must be concise, well organized and demonstrate your firm's qualifications and experience related to municipal building assessment and evaluation projects. The Proposal must include the following:

I. Cover Letter: The cover letter shall include the name and address of the organization submitting the Proposal and the name, address, phone number, and email address of the contact person who will be authorized to make representations for the organization. The cover letter shall clearly identify the project(s) the Consultant is proposing on.

II. Table of Contents: The table of contents shall include an outline of the Proposal, identified by sequential page number, and section title as described herein.

III. Corporate Documentation: Documentation shall include relevant information regarding organizational stability and strength, including a description of the organization (e.g., sole proprietorship, partnership, corporation, joint venture, etc.).

IV. Qualification and Experience: Qualification and experience shall include, but not be limited to, the following:
   • Identification of principal staff members including major subconsultants that will be directly involved in the project. Provide information including relevant experience and education in providing the required services. Resumes may be included as an appendix.
   • Experience of the firm and of the team on similar projects.
   • An organizational chart indicating structure of consultant and subconsultants and how entities will work together, i.e. by function, design, production, etc.
   • Identify the availability of your team and the percentage of current workload of staff that would be committed to this project including subconsultants.
   • Provide contact person, client's name, telephone number and address of a minimum of three (3) references where similar work was performed.

V. Scope of Work: Scope of Work and Project Understanding shall include a description of your firm's understanding of the plan, a description of your firm's approach to the work, and a preliminary schedule. It is the responsibility of the Consultant to submit a Proposal
that contains all of the services necessary for successful delivery.

The Proposal shall be 8½" x 11" in size, but sheets up to 11" x 17" may be used for graphs, tables, etc. provided that they are folded into the Proposal. The total number of pages for the proposal should not exceed ten (10) pages. The total page count shall include any side of a sheet of paper containing content that is required in this section, with the exception of resumes, which will not count toward the total page count. Page dividers, tabs, etc. will not count towards the total page count. Federal forms, disclosures, fee proposals, and signed addenda will not count towards the total page count.

**FEE PROPOSAL**

Consultant shall submit a fee proposal in a separate and sealed envelope labeled “Fee Proposal” along with the Project title. The Southeast Water Coalition will negotiate with the top-ranked consultant in compliance with all applicable federal, state, and local guidelines. Fee proposal shall include costs, including labor base rate, overhead, and all other direct and indirect costs for all personnel proposed to perform the work.

**CONSULTANT SELECTION PROCESS**

The selection of the firms will be based on the following:

**CONSULTANT EVALUATION SHEET**

<table>
<thead>
<tr>
<th>CRITERIA</th>
<th>MAXIMUM POINTS</th>
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<tbody>
<tr>
<td>Proposing Firm and sub-consultant qualifications.</td>
<td>15</td>
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<td>Project Manager’s qualifications and experience</td>
<td>20</td>
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<td>Program development experience on similar assignments.</td>
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<td>Experience with grants and financial assistance for administering</td>
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<td>similar programs.</td>
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<td>Experience preparing site assessments and concept plans for similar</td>
<td>10</td>
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<td>assignments.</td>
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<td>Availability of key personnel and supporting services</td>
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<tr>
<td>Quality of Proposal</td>
<td>5</td>
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<tr>
<td>Understanding of local, state and federal laws, regulations, and</td>
<td>5</td>
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<tr>
<td>requirements</td>
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<td><strong>TOTAL</strong></td>
<td><strong>100</strong></td>
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Interviewing of consultants is at the discretion of the Southeast Water Coalition.

The approximate schedule for the Consultant selection process is as follows:

- **Request for Proposals Released** April 6, 2015
- **Proposals Due** May 7, 2015 (5:00 p.m.)
- **Shortlist Consultants** May 14, 2015
- **Consultant Interviews** May 21, 2015
- **Contract Award** June 9, 2015

**Disclosure:** Consultants shall disclose in their responses to any Request for Proposals whether they have been the subject of any legal investigation by County, State, and/or Federal agencies.
within the past 5 years. If so, each responding consultant shall identify the agency and contact 
person, the nature of the investigation, and any determination over outcome of said 
investigation. Non-compliance with this section shall result in rejection of the Proposals, but a 
consultant's disclosure of any such investigation (even one which resulted in a determination 
that was adverse to the consultant) will not automatically result in rejection of the Proposal. The 
occurrence, nature, underlying facts, and outcome of any such investigation are not by 
themselves determinative but are simply included among many factors that will be considered 
by the Southeast Water Coalition in evaluating Proposals.

RIGHT TO REJECT ALL PROPOSALS

The Southeast Water Coalition (SEWC) reserves the right to reject all proposals submitted, and 
no representation is made hereby that any contract will be awarded pursuant to this RFP. All 
costs incurred in the preparation of the proposal and subsequent material, including a proposal, 
in the submission of additional information, and/or in any other aspect of a proposal prior to the 
award of a written contract will be borne by the respondent. The Southeast Water Coalition will 
provide only the staff assistance and documentation specifically referred to herein and will not 
be responsible for any cost or obligation of any kind, which may be incurred by a respondent. 
All proposals and other information submitted to the Southeast Water Coalition in response to 
this RFP shall become the property of the Southeast Water Coalition.

INSURANCE REQUIREMENTS

Consultant shall provide insurance certificates naming the Southeast Water Coalition as 
additional insured for Workers Compensation Insurance, General Liability and Automobile 
Liability; the consultant must provide Professional Liability Insurance coverage (Errors and 
Omissions in the amount of $1,000,000 per occurrence). The insurance certificate shall contain 
a provision that the Southeast Water Coalition shall be given ten (10) days prior written notice in 
the event of cancellation or reduction in coverage. Please refer to the attached Sample 
Professional Services Agreement for complete insurance requirements.

AWARD OF CONTRACT

The Southeast Water Coalition will not pay any costs incurred by any firm or person submitting 
a Proposal. All data, documents, and other products submitted with the Proposal shall become 
the property of the Southeast Water Coalition.

The Southeast Water Coalition reserves the rights to reject, modify, or cancel, in part or in its 
entirely, this RFP. The Southeast Water Coalition assumes no obligation, and none is implied, 
to award a contract for any phase or services, specified in this RFP.

A standard consultant agreement will be used. A sample of this agreement is included as 
Attachment A. Your proposal shall contain a statement of the firm's willingness to execute the 
contract with an indication of any contractual requirements for which the consultant takes 
exception.

CONSULTANT AGREEMENT

A sample of the standard consultant agreement is attached as Attachment A. Your proposal 
shall contain a statement of the firm's willingness to execute the contract with an indication of 
any contractual requirements for which the consultant takes exception.
QUALITY ASSURANCE AND QUALITY CONTROL

The Consultant shall follow industry standards of quality control practices. The Consultant project manager shall review all documentations before submittal to the Southeast Water Coalition.
Potential Strategic Planning Consultants

**Means Consulting**
Ed Means, President
Orange County
(949)-439-9120
Email: edmeans@roadrunner.com
Website: http://www.meansconsultingllc.com/

**Cascadia Consulting Group**
Los Angeles Office: 5060 Via Calderon, Camarillo, CA 93012
(323) 577-9630
Website: http://www.cascadiaconsulting.com/

**Stratecon Inc.**
1490 N. Claremont Blvd. Suite 203, Claremont, CA 91711
(909) 626-2221
Website: http://www.stratwater.com/

**The Highlands Consulting Group**
400 Capitol Mall, Suite 1630, Sacramento, CA 95814
(916) 448-4300; Fax (916) 448-4301
Email: information@highlandsconsulting.com
Website: http://highlandsconsulting.com/

**KH Consulting Group**
Gayla Kraetsch Hartsough, Ph.D., President
1901 Avenue of the Stars, 2nd Floor, Los Angeles, California 90067
(310) 203-5417; Fax (310) 203-5419
Email: info@khcg.com
Website: http://www.khconsultinggroup.com/index.php
GOALS AND OBJECTIVES
FY 2014 - 2015

SEWC JPA MISSION STATEMENT

The mission of SEWC is to “Develop and pursue good water policy insuring a reliable supply of affordable, high quality water for our communities and protect the Central Basin from migrating contaminated groundwater.”

SEWC will continue to participate in issues relating to groundwater contamination, water supply, and conservation. Since the 1990’s SEWC has been monitoring several areas where contamination is indicated and has been a strong advocate for cleanup activities by USEPA and California regulators with such responsibilities.

SEWC must work to encourage development of groundwater storage programs and procedures to improve local water supply through conjunctive use while protecting groundwater resources.

FY 2014 - 2015 SEWC JPA GOALS & OBJECTIVES
(including but not limited to)

1. Protection of the Central Basin groundwater supply from contamination.

2. Develop a strategy to utilize the groundwater storage and recovery program that is in the best interest of sound groundwater management for the benefit of local communities and the public.

3. Work in partnership with the Gateway Water Management Authority to implement the Integrated Regional Water Management Plan for the southeast Los Angeles County and lower Los Angeles and San Gabriel Rivers Watershed.

4. Work in partnership with USEPA and other agencies to continue to protect Central Basin drinking water wells from detectable contamination.

5. Work in partnership with USEPA, state and local agencies to continue to prioritize cleanup of the Omega Chemical Site protecting Central Basin drinking water wells from detectable contamination.

6. Advocate for the commitment from USEPA to ‘fund lead’ groundwater contamination cleanup in the local area.

7. Strongly support the development of a useable, public domain groundwater quality modeling software to monitor groundwater contamination by USEPA.
8. Advocate improvements to the State and Federal funding process for water, wastewater, and storm water projects and facilities.

9. Work to explore the development of additional uses of recycled water.

10. Continue to evaluate the Groundwater Reliability Improvement Project Closely monitor the costs and benefits of the project, the cost of produced water, as well as the proper mitigation of impacts on local agencies.

11. As directed by the Board, monitor and advocate for improvements to water policy as proposed in state and federal legislation.

12. Support the San Gabriel Basin Water Quality Authority (WQA) / South El Monte Operable Unit (SEMOU) barrier project and the long term SEMOU remediation project by USEPA/WQA.

13. Support good governance policy changes at regional water agencies serving SEWC cities. Creating a culture of responsible governance at these regional agencies will naturally result in more affordable water for local residents.

Additions

- Evaluate how grant funding opportunities align with SEWC Goals and Objectives with a goal of securing funds to implement projects within the SEWC region.

- Identify opportunities to protect and enhance water quality within the SEWC region through infrastructure, projects, policies, or programs.

- Mr. Cervantes stated the SEWC Board of Directors approved the allocation of $50,000 to the development of a master plan for water quality.

- Possible programs and Projects include potable water infrastructure, wells, infiltration of storm water runoff, and the increased use of recycled water for groundwater recharge.

- Chairman Glancy specifically mentioned the GRIP Project and stated that SEWC should look for ways to actively support the project and help secure grants funds to help it move forward.

- SEWC should expand their focus to look for opportunities to develop regional water quality projects that could be implemented as funding sources become available. This would enable SEWC to leverage the clout of its eleven member cities to develop and implement programs that would be beneficial to the entire region. These regional programs could include projects related to drinking water production and quality; storm water capture and infiltration; and ground water recharge.
• SEWC could act as a regional organization to research and solicit funds for these regional programs.

• Board member Camacho (Pico Rivera) also stated that he would like to see SEWC more involved in supporting and, as necessary, developing and sponsoring, legislation to address water related issues.

• Great focus on regional programs, projects and funding opportunities.
SOUTHEAST WATER COALITION
JOINT POWERS AUTHORITY
AGENDA REPORT

Date: January 21, 2016
To: Southeast Water Coalition Administrative Entity
From: Adriana Figueroa, Chair, City of Norwalk

Subject: Metropolitan Water District / County Sanitation District #2 of Los Angeles County - Potential Regional Recycled Water Supply Program

Recommendation: Update and discussion.

Discussion
A regional collaboration between the Metropolitan Water District (Metropolitan) and the Los Angeles County Sanitation District (Sanitation District) to jointly develop recycled water supplies has been under discussion for over five years. In March 2010, Metropolitan's Board authorized staff to collaborate with the Sanitation District to study the feasibility of a regional indirect potable reuse program and to perform pilot-scale studies. Between June 2010 and July 2012, these pilot studies were conducted jointly by the two districts at the JWPCP in order to evaluate the feasibility of advanced treatment of the JWPCP's secondary effluent. The pilot-scale studies also evaluated how Metropolitan could meet the then-draft Title 22 Groundwater Replenishment Regulations administered by the California Department of Public Health, now the Division of Drinking Water. The results of the pilot-scale studies indicated that advanced treatment for indirect potable reuse through groundwater replenishment is technically feasible. Since the pilot study, additional requirements were incorporated into the final Title 22 Groundwater Replenishment Regulations, which became effective June 2014.

On this basis, Metropolitan and the Sanitation District have jointly prepared a proposed agreement to implement a demonstration project and to establish the framework of terms and conditions for development of a regional recycled water supply program.

Under this regional program, Metropolitan would purify the secondary effluent from the Sanitation District's JWPCP using advanced treatment technologies to produce water that is near-distilled in quality and that would be equal or better than the quality of water currently used to replenish groundwater basins in the Southern California region. Up to 150 mgd of secondary effluent from the JWPCP, which is currently discharged to the Pacific Ocean, would be available for purification and reuse. Metropolitan would deliver the purified water annually to member agencies to meet their groundwater recharge and storage requirements.
The Sanitation District is a member of a partnership of 24 independent and special districts that provide wastewater and solid waste management for approximately 5.3 million people in Los Angeles County. These agencies currently treat an average of 440 mgd of wastewater at ten water reclamation plants and at the JWPCP located in Carson, California. The JWPCP is the Sanitation District’s largest wastewater treatment plant, with a capacity of 400 mgd. It currently provides primary and secondary treatment to an average daily flow of approximately 270 mgd of wastewater before it is discharged through outfall tunnels to the Pacific Ocean. In consideration of recent wastewater flow reductions due to conservation, and regulatory compliance issues associated with brine discharge from the potential advanced water treatment facility, the Sanitation District estimates that there is sufficient secondary effluent available to produce approximately 150 mgd of purified water for reuse.

**Proposed Demonstration Project**

As an initial step, the demonstration project would serve as a proof of concept and would provide critical information needed for implementation of the potential regional recycled water supply program. The demonstration project would consist of three components:

1. **Demonstration Plant** – A 1-mgd demonstration-scale recycled water treatment plant would be planned and designed to verify criteria for the source quality of water from the JWPCP for the advanced water treatment facility; to confirm the treatment processes required for regulatory acceptance of the purified product water for groundwater recharge; and to characterize the brine and waste for disposal. The demonstration plant would be located within the operational boundary of the JWPCP.

2. **Feasibility Studies of the Delivery System** – Metropolitan would conduct feasibility studies of the delivery system that would distribute the purified water to member agencies for the recharge of groundwater basins within the service area.

3. **Financing Plan** – Metropolitan would also prepare a financing plan to assess the economic viability of a regional program. The financing plan would establish water sale arrangements with member agencies for the delivery of reuse water for recharge of groundwater basins; evaluate the potential for state and federal grants and loans; determine cost-sharing opportunities; and assess funding and rate impacts.

**Attachment(s):**
1. Metropolitan Water District of Los Angeles Board Action.
Subject

Appropriate $15 million; and authorize: (1) agreement with County Sanitation District No. 2 of Los Angeles County for development of a potential regional recycled water supply program; and (2) design of a demonstration-scale recycled water treatment plant (Approp. 15493)

Executive Summary

This action authorizes Metropolitan to enter into an agreement with the Sanitation Districts of Los Angeles County, specifically County Sanitation District No. 2 of Los Angeles County (Sanitation District), to implement a demonstration project and to establish the framework of terms and conditions for development of a regional recycled water supply program. As reported to the Water Planning and Stewardship Committee on September 22, 2015 and October 12, 2015, Metropolitan has the opportunity to work collaboratively with the Sanitation District to develop a potential regional recycled water supply program that would purify and reuse water for the recharge of groundwater basins. Under the proposed agreement, Metropolitan and the Sanitation District would jointly develop this program to purify secondary effluent from the Sanitation District’s Joint Water Pollution Control Plant (JWPCP) using advanced treatment technologies to produce water that is near-distilled in quality and that would be equal or better than the quality of water currently used to replenish groundwater basins in the Southern California region. The secondary effluent from the JWPCP is currently discharged to the Pacific Ocean. The purified water would be delivered to Metropolitan’s member agencies to meet their groundwater recharge and storage requirements. A collaboration between the two districts could advance the reuse of water at a scale, timing, and strategic location to serve the direct needs of multiple member agencies for recharge of groundwater basins in Southern California, and to augment regional supplies for Metropolitan’s service area.

The demonstration project would serve as a proof of concept and would provide critical information needed for implementation of the potential regional recycled water supply program. The demonstration project would consist of three components: (1) a one million gallon per day (1mgd) demonstration-scale treatment plant, which would verify source water quality criteria and confirm the advanced treatment process needed to purify water for groundwater recharge; (2) feasibility studies of the delivery system to determine the distribution facilities, routing, capacity, phasing, and timing needed to recharge various groundwater basins within Metropolitan’s service area, and (3) a financing plan to assess the economic viability of a full-scale regional program. Staff anticipates returning to the Board within one year with its preliminary recommendations concerning the full-scale program.

The proposed agreement also establishes the framework of terms and conditions for development of the full-scale regional recycled water supply program, if recommended to both districts’ respective boards for future consideration. The objectives of this framework are to enable the potential reuse of up to 150 mgd of treated effluent from the Sanitation District’s JWPCP; fairly divide potential costs and investments, and establish responsibilities between Metropolitan and the Sanitation District; reserve the use of a Sanitation District site for the advanced water treatment facility; and ensure that this program would avoid conflicts and duplication with other recycled water plans.
Timing and Urgency

Development of a regional recycled water supply program would present a significant opportunity to provide a new resource that would help maintain groundwater recharge and storage for the service area. The unprecedented drought conditions of the past eight years have resulted in significant reductions in local surface supplies and groundwater production, and have increased the need for recharge supplies to groundwater and surface reservoirs to improve their sustainable yields and operating integrity. The challenges of continued droughts, climate change uncertainties, and the hydrologic variability of imported water supplies, demonstrate the value in accelerating development of water resources, including conservation, water recycling, groundwater recovery and storage, and ocean desalination.

The demonstration-scale treatment plant will be a capital project under Metropolitan's Capital Investment Plan (CIP). Funds for this project are available within Metropolitan’s capital expenditure plan for fiscal year 2015/16.

Details

Advancing Recycled Water Resources Development

The current statewide drought emergency has underscored the importance of advancing the development of recycled water, in conjunction with conservation and maintaining core imported supplies—all as outlined in Metropolitan’s Integrated Resources Plan (IRP). The 2014/15 water year brought the lowest snowpack and runoff in recorded history, and resulted in significant loss of surface water supplies and groundwater production within Metropolitan’s service area. Reservoirs and groundwater basins are now at their lowest storage levels in the last two decades, highlighting an increasing need for groundwater and surface reservoir recharge supplies to improve their sustainable yields and operating integrity. The projected groundwater production within Metropolitan's service area is estimated to have fallen by approximately 250,000 acre-feet per year due to these unprecedented drought conditions. In addition, there remains 150,000 acre-feet per year of new conservation and local resources that have yet to be developed in order to meet the 2010 IRP resource targets for maintaining water supply reliability over the next 20 years.

These events and potential challenges have led Metropolitan and its member agencies to pursue resource strategies that accelerate the development of significant local resources to deal with droughts, climate change, and seismic risks. The development of a regional recycled water supply program would be consistent with these strategies and would provide a significant water supply. Further, the potential program would offer an opportunity to add value to Metropolitan’s core supplies, by recapturing for reuse a significant amount of imported State Water Project (SWP) and Colorado River Aqueduct (CRA) supplies that have already been delivered to the Sanitation District’s service area by Metropolitan.

Regional Collaboration

A regional collaboration between Metropolitan and the Sanitation District to jointly develop recycled water supplies has been under discussion for over five years, with careful consideration of the technical feasibility and institutional coordination required. In March 2010, Metropolitan’s Board authorized staff to collaborate with the Sanitation District to study the feasibility of a regional indirect potable reuse program and to perform pilot-scale studies. Between June 2010 and July 2012, these pilot studies were conducted jointly by the two districts at the JWPCP in order to evaluate the feasibility of advanced treatment of the JWPCP’s secondary effluent. The pilot-scale studies also evaluated how Metropolitan could meet then-draft Title 22 Groundwater Replenishment Regulations administered by the California Department of Public Health, now the Division of Drinking Water. The results of the pilot-scale studies indicated that advanced treatment for indirect potable reuse through groundwater replenishment is technically feasible. Since the pilot study, additional requirements were incorporated into the final Title 22 Groundwater Replenishment Regulations, which became effective June 2014.

On this basis, Metropolitan and the Sanitation District have jointly prepared a proposed agreement to implement a demonstration project and to establish the framework of terms and conditions for development of a regional recycled water supply program. The term sheet for the agreement is included in Attachment 1. The proposed agreement provides the draft terms and conditions for regional collaboration between the two districts to advance
the reuse of water at a scale, timing, and strategic location to serve the direct needs of multiple member agencies for the recharge of groundwater basins in Southern California, and to augment regional supplies for Metropolitan's service area.

Under this regional program, Metropolitan would purify the secondary effluent from the Sanitation District's JWPCP using advanced treatment technologies to produce water that is near-distilled in quality and that would be equal or better than the quality of water currently used to replenish groundwater basins in the Southern California region. Up to 150 mgd of secondary effluent from the JWPCP, which is currently discharged to the Pacific Ocean, would be available for purification and reuse. Metropolitan would deliver the purified water annually to member agencies to meet their groundwater recharge and storage requirements.

The Sanitation District is a member of a partnership of 24 independent and special districts that provide wastewater and solid waste management for approximately 5.3 million people in Los Angeles County. These agencies currently treat an average of 440 mgd of wastewater at ten water reclamation plants and at the JWPCP located in Carson, California (Attachment 2). The JWPCP is the Sanitation District's largest wastewater treatment plant, with a capacity of 400 mgd. It currently provides primary and secondary treatment to an average daily flow of approximately 270 mgd of wastewater before it is discharged through outfall tunnels to the Pacific Ocean. In consideration of recent wastewater flow reductions due to conservation, and regulatory compliance issues associated with brine discharge from the potential advanced water treatment facility, the Sanitation District estimates that there is sufficient secondary effluent available to produce approximately 150 mgd of purified water for reuse.

Proposed Demonstration Project

As an initial step, the demonstration project would serve as a proof of concept and would provide critical information needed for implementation of the potential regional recycled water supply program. The demonstration project would consist of three components:

1. **Demonstration Plant** – Under the proposed agreement, a 1-mgd demonstration-scale recycled water treatment plant would be planned and designed to verify criteria for the source quality of water from the JWPCP for the advanced water treatment facility; to confirm the treatment processes required for regulatory acceptance of the purified product water for groundwater recharge; and to characterize the brine and waste for disposal. Critical information will be developed for these parameters in conjunction with design of the 1-mgd demonstration plant, and will be provided by December 2016. Award of a construction contract for the demonstration plant is also planned for that date. The plant would then be constructed and operated to optimize design and operational strategies for the above parameters to assist in scale-up to a full-scale advanced water treatment facility. The demonstration plant would also confirm capital and operating costs for the full-scale facility, provide water quality data for regulatory acceptance, and create a visitor center for public outreach and education. The demonstration plant would be located within the operational boundary of the JWPCP.

2. **Feasibility Studies of the Delivery System** – Metropolitan would conduct feasibility studies of the delivery system that would distribute the purified water to member agencies for the recharge of groundwater basins within the service area. The anticipated activities of the feasibility studies include the development of program capacity, phasing, and timing; coordination with member agencies and stakeholders on groundwater recharge requirements; investigation of delivery system facilities, alignments, rights-of-way, and substructures; development of initial costs, and identification of regulatory and environmental requirements.

3. **Financing Plan** – Metropolitan would also prepare a financing plan to assess the economic viability of a regional program. The financing plan would establish water safe arrangements with member agencies for the delivery of reuse water for recharge of groundwater basins; evaluate the potential for state and federal grants and loans; determine cost-sharing opportunities; and assess funding and rate impacts.
Development of a Potential Full-Scale Program

The determination to proceed with a full-scale regional recycled water supply program would be made based on information developed and confirmed through the demonstration project. The proposed agreement between Metropolitan and the Sanitation District addresses implementation of the demonstration project and also establishes the framework of terms and conditions for development of a full-scale program, if recommended to both districts' respective boards for future consideration. Under the proposed agreement, the respective responsibilities of the two districts and key terms for both the demonstration project and the full-scale program are outlined. The key terms for the full-scale program are tentative and not binding until that full-scale program is authorized by the boards of Metropolitan and the Sanitation District. The term sheet appears in Attachment 1.

The responsibilities and key terms for the demonstration project are as follows:

- Subject to each board's approval
- If authorized to proceed, the Sanitation District would:
  1. Deliver 1 mgd of secondary-treated effluent as source water to the demonstration plant.
  2. Provide land and utilities for the demonstration plant.
  3. Dispose of brine and waste streams.
  4. Perform influent laboratory analyses.
- If authorized to proceed, Metropolitan would:
  1. Fund, design, construct, operate, and maintain the 1mgd demonstration plant.
  2. Conduct feasibility studies for a potential full-scale program in conjunction with the demonstration project.
  3. Determine water quality-related, regulatory, and flow parameters for a potential full-scale program.

The tentative responsibilities and key terms for a full-scale regional recycled water supply program are as follows:

- Subject to each board’s approval
- If authorized to proceed, the Sanitation District would:
  1. Deliver secondary-treated effluent as source water to Metropolitan’s advanced water treatment facility sufficient to produce up to 150 mgd of product water.
  2. Lease land for the advanced water treatment facility.
  3. Maintain the quantity and quality of the source water made available to the advanced water treatment facility for each phase of the full-scale program as agreed to by the parties, subject to certain conditions.
  4. Dispose of brine and waste streams.
  5. Agree not to collect from Metropolitan a fee, service charge, or connection fee for the above.
- If authorized to proceed, Metropolitan would:
  1. Fund, design, construct, operate, and maintain the advanced water treatment facility and delivery system. The program may be developed in phases, up to a capacity of 150 mgd, while funding would be less any state or other participating funds.
  2. Distribute and sell the product water.
  3. Provide exchange water, in a quantity of approximately one percent of the product water, to the Sanitation District.
  4. Pay $5,000 per acre/year to the Sanitation District, escalated by the CPI annually, for the land leased for the advanced water treatment facility.
Demonstration-Scale Recycled Water Treatment Plant – Planning and Design Phase ($15,000,000)

The planning effort will include conceptual layout of the plant, coordination of connections to the Sanitation District facility, identification of permitting requirements, and preparation of a conceptual design report.

Planned design phase activities include field surveys, detailed geotechnical investigations, preparation of environmental documentation, value engineering, local agency permitting, preparation of final construction plans and specifications, receipt of competitive bids, and development of construction cost estimates.

The design approach for the 1 mgd plant will utilize MWD staff, consultants, and in-kind services from the Sanitation District. Staff will initiate a selection process for design consultants with specialized expertise in the design and operation of these types of recycled water facilities. In addition to designing the plant, it is envisioned that the consultant will provide engineering support during construction of the plant, and will provide staff to operate the plant for the initial 12 months of operation and testing. Staff will return to the Board to authorize the consulting agreement for the design phase of the project in February 2016. At the time the construction contract for the plant is awarded, staff may return to the Board to amend the professional services agreement for the construction oversight and operational activities. Metropolitan staff will provide technical oversight of the design effort and will perform design in appropriate areas of the project. The Sanitation District staff will perform design activities within the JWPCP at locations where the demonstration plant will tie into its existing facilities.

This action appropriates $15 million for design, construction, and one year of operation of the demonstration plant, and authorizes planning and design-phase activities for the plant (Attachment 3). The requested funds for the planning and design phase includes $770,000 for planning and conceptual design, $1.2 million for design, and $510,000 for permitting, preparation of environmental documentation, value engineering, and project management. The requested funds for the construction, start-up, operation, and testing are $11.62 million. The remaining budget is $900,000. Staff will return to the board in the future for authorization of construction, start-up, operation and testing, and to award the construction contract of the plant.

The total estimated cost for design, construction and one year of operation of the demonstration plant is $15 million. The demonstration-scale treatment plant will be a capital project under Metropolitan’s Capital Investment Plan (CIP). Funds for this project are available within Metropolitan’s capital expenditure plan for fiscal year 2015/16.

Project Milestones

February 2016 – Board authorization of agreements for design of the demonstration plant and for feasibility studies

October/November 2016 – Board review of the Financing Plan, the results of the feasibility studies of the delivery system, and the critical process-related information developed during design of the demonstration plant

December 2016 – Board award of construction contract for the demonstration plant; and potential certification of environmental documentation for the full-scale regional recycled water supply program

Policy

Metropolitan Water District Administrative Code Section 8121: General Authority of the General Manager to Enter Contracts

By Minute Item 42287, dated February 11, 1997, the Board adopted a set of policy principles on water recycling

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:
The proposed action is categorically exempt under the provisions of CEQA and the State CEQA Guidelines. The proposed action involves the funding and minor alterations of existing private or public facilities, along with the construction of minor appurtenant structures, with minor modifications in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees. The proposed action also consists of basic data collection and resource evaluation activities, which do not result in a serious or major disturbance to an environmental resource. This may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded. These activities would result in negligible expansion of use and no possibility of significantly impacting the physical environment. Accordingly, the proposed action qualifies under Class 1, Class 3, Class 4, and Class 6 Categorical Exemptions (Sections 15301, 15303, 15304, and 15306 of the State CEQA Guidelines).

The CEQA determination is: Determine that pursuant to CEQA, the proposed action qualifies under four Categorical Exemptions (Class 1, Section 15301; Class 3, Section 15303; Class 4, Section 15304; and Class 6, Section 15306 of the State CEQA Guidelines).

CEQA determination for Option #2:
None required

Board Options

Option #1
Adopt the CEQA determination that the proposed action is categorically exempt, and
a. Approve $15 million;
b. Authorize agreement with County Sanitation District No. 2 of Los Angeles County, substantially in conformance with the terms included in Attachment 1, and in a form approved by the General Counsel, for implementation of a demonstration project and development of a potential regional recycled water supply program; and
  c. Authorize design of a demonstration-scale recycled water treatment plant.

Fiscal Impact: $15 million in capital funds under Approp. No. 15493
Business Analysis: This option would advance the development of significant water reuse for the recharge of groundwater basins in Southern California, and would augment regional supplies for Metropolitan’s entire service area to deal with droughts, climate change, and seismic risks, and to meet IRP resource targets.

Option #2
Do not proceed with the demonstration project or development of a regional recycled water supply program.
Fiscal Impact: None
Business Analysis: This option would forgo an opportunity to develop a significant recycled water resource to meet the increasing need for groundwater and surface reservoir recharge supplies for the improvement of sustainable yields, and to increase the region’s water supply to deal with droughts, climate change, and emergencies.
Staff Recommendation

Option #1

Debra Man
Chief Operating Officer

Date

Jeffrey Kightlinger
General Manager

Date

Attachment 1 – Term Sheet for Potential Regional Recycled Water Program Agreement with Sanitation District No. 2 of Los Angeles County

Attachment 2 – Location Map

Attachment 3 – Financial Statement

Ref# es12639798
TERM SHEET FOR POTENTIAL REGIONAL RECYCLED WATER PROGRAM AGREEMENT WITH SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY

**GENERAL TERMS**

**AGREEMENTS**
- Program Agreement ("Agreement")
- Ground Lease
- Source Water Agreement

**PARTIES**
- Metropolitan Water District of Southern California ("Metropolitan")
- County Sanitation District No. 2 of Los Angeles County ("Sanitation District")

**EFFECTIVE DATE**
- Agreement becomes effective on last date of execution of Agreement, Ground Lease and Source Water Agreement ("Effective Date").

**TERM**
- Twenty years from Effective Date

**PROGRAM INTENT**
- To produce 150 million gallons per day ("MGD") of purified water from Sanitation District's Joint Water Pollution Control Plant ("Joint Plant") in Carson for groundwater recharge and similar uses

**PROJECT PHASING**
- **Demonstration Project**: approx. 1 MGD capacity, single phase
- **Full-Scale Project**: up to 150 MGD capacity, multiple phases

**SCOPE OF COMMITMENT**
- **Demonstration Project**: Binding terms and conditions
- **Full-Scale Project**: Proposed terms and conditions only

**CEQA COMPLIANCE**
- Metropolitan to act as Lead Agency for Demonstration Project and, if appropriate, for Full-Scale Project. Metropolitan agrees to indemnify Sanitation District for any CEQA-related lawsuits.

**WORKING COMMITTEE**
- Parties will establish Working Committee to manage activities and address issues on day-to-day basis.

**DISPUTE RESOLUTION**
- Parties will attempt to resolve any disputes in prompt and equitable manner. Parties may pursue litigation if no resolution is reached.

**INDEMNITY**
- Reciprocal indemnity provisions based on nature, scope and location of each Party's activities.

**INDEPENDENT CONTRACTORS**
- No partnership or joint venture. Each Party acting as independent contractor.
TERM SHEET FOR POTENTIAL REGIONAL RECYCLED WATER PROGRAM AGREEMENT WITH SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY

DEMONSTRATION PROJECT TERMS

TREATMENT FACILITY

Location
Parties will identify mutually acceptable location within boundaries of Joint Plant for Demonstration Project. Site property will be leased to Metropolitan at no cost.

Capacity
Demonstration Project anticipated to produce approximately one MGD of purified water. Exact design and configuration determined by Metropolitan in its sole discretion.

Design and Construction
Metropolitan will permit, design and construct Demonstration Project and any power feeds, raw water supply lines, waste stream lines, and other process lines (“Ancillary Facilities”) within two years of Effective Date. Metropolitan responsible for costs of permitting, design and construction activities, except to extent they are covered by other entities.

Sanitation District will be responsible for any preexisting hazardous wastes or contaminated soil or groundwater identified during design or encountered during construction. Metropolitan will be responsible for all other construction wastes.

Ownership and Operation
Metropolitan will be sole owner of Demonstration Project and Ancillary Facilities and will operate and maintain them for duration of Agreement Term. Metropolitan responsible for costs associated with operation and maintenance of the Demonstration Project and Ancillary Facilities.

Parties may utilize Demonstration Project for public outreach purposes, which may include providing tours of facility.

Removal of Demonstration Project
At end of Demonstration Project, Sanitation District has right to purchase Demonstration Project and Ancillary Facilities for their salvage value.

If Sanitation District does not purchase the facilities, then Metropolitan must remove them and return site to pre-project condition within two years of notice from Sanitation District.
TERM SHEET FOR POTENTIAL REGIONAL RECYCLED WATER PROGRAM AGREEMENT WITH SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY

Permits and Authorizations
Metropolitan will secure any permits, authorizations and approvals required to construct and operate Demonstration Project and Ancillary Facilities. Sanitation District will cooperate with Metropolitan in securing such permits, authorizations and approvals.

Utilities
Sanitation District will provide all utility connections and services needed to construct and operate Demonstration Project at no cost to Metropolitan.

SOURCE WATER

General Obligation
Sanitation District will provide secondary effluent from Joint Plant ("Source Water") in amount sufficient to meet treatment capacity of Demonstration Project at no cost to Metropolitan. Parties will agree on schedule and criteria for delivery of Source Water to Demonstration Project prior to final design.

Source Water Facilities
Construction: Sanitation District will design and construct any facilities necessary to deliver Source Water to Demonstration Project ("Source Water Delivery Facilities") and any Joint Plant tie-ins ("Tie-In Facilities") within two years of the Effective Date.

Ownership and Operation: Sanitation District will be sole owner of Source Water Delivery and Tie-In Facilities and will operate and maintain them for duration of Agreement Term.

Permits and Authorizations: Sanitation District will secure any permits, authorizations and approvals required to construct and operate Source Water Delivery and Tie-In Facilities. Metropolitan will cooperate with Sanitation District in securing such permits, authorizations and approvals.

OTHER TERMS

Distribution and Use of Purified Water
Metropolitan will convey all purified water produced by Demonstration Project to suitable location within the Joint Plant, as determined by Sanitation District.

Sanitation District will be responsible for and have discretion over any subsequent distribution, use or disposal of the purified water, and be entitled to any revenues resulting from such distribution, use or disposal.
TERM SHEET FOR POTENTIAL REGIONAL RECYCLED WATER PROGRAM AGREEMENT WITH SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY

Disposal of Treatment Residuals

Sanitation District responsible for disposal of any and all residuals generated by the Demonstration Project ("Treatment Residuals"). Metropolitan will return all Treatment Residuals to suitable location at Joint Plant, as determined by the Sanitation District prior to commencement of final design.

Connection of the Demonstration Project to the Joint Plant will not be considered sewer connection. Sanitation District will not assess any charge or fee on Metropolitan for disposal of Treatment Residuals at Joint Plant.

Laboratory Analyses and Data Sharing

Parties will jointly conduct sampling and laboratory analyses as necessary to monitor and determine treatment efficacy of Demonstration Project. Sanitation District responsible for sampling and laboratory analyses upstream of Demonstration Project; Metropolitan responsible for sampling and laboratory analyses within and downstream of Demonstration Project. Parties will share water quality and process data associated with operation of Joint Plant and Demonstration Project during Agreement Term.

Development of Full-Scale Project Requirements

Source Water Criteria: Parties will work collaboratively to develop Source Water quality and flow criteria that will ensure cost-effective treatment at any Full-Scale Project facilities constructed during subsequent phases of program. Parties also will meet and confer to develop enhancements to Sanitation District’s industrial wastewater pretreatment program aimed at controlling Source Water contaminants.

Other Studies and Evaluations: Parties will cooperate in conducting and preparing other studies and plans as are necessary to assess economic and technical feasibility, financing needs, right-of-way and permitting requirements, environmental and regulatory compliance obligations, and engineering, construction and operational specifications for the Full-Scale Project.

Pursuit of Grant and Loan Funding

Parties will jointly pursue grant and loan funding in support of Demonstration Project. Any funding received will be distributed based on percentage of design and capital costs contributed by each Party in support of Demonstration Project.
TERM SHEET FOR POTENTIAL REGIONAL RECYCLED WATER PROGRAM AGREEMENT WITH SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY

POTENTIAL FULL-SCALE PROJECT TERMS

TREATMENT FACILITY

Location

Parties will identify mutually acceptable location within boundaries of Joint Plant for Full-Scale Project, up to 35 acres ("Full-Scale Project Site"). Site property will be leased to Metropolitan for $5,000 per acre (2015 dollars), with annual CPI adjustment. Lease term will begin when construction commences.

Capacity

Full-Scale Project anticipated to produce up to 150 MGD of purified water. Parties will agree on maximum capacity for each phase of Full-Scale Project prior to final design for that phase. Exact design and configuration determined by Metropolitan in its sole discretion.

Design and Construction

Metropolitan will design and construct Full-Scale Project and Ancillary Facilities. Metropolitan responsible for costs of permitting, design and construction activities, except to extent they are covered by other entities.

Sanitation District will be responsible for any preexisting hazardous wastes or contaminated soil or groundwater identified during design or encountered during construction at the Full-Scale Project Site. Metropolitan will be responsible for all other construction wastes.

Ownership and Operation

Metropolitan will be sole owner of Full-Scale Project and Ancillary Facilities and will operate and maintain them for duration of Program which is anticipated to have minimum duration of 50 years. Metropolitan responsible for costs associated with operation and maintenance of the Full-Scale Project and Ancillary Facilities.

Permits and Authorizations

Metropolitan will secure any permits, authorizations and approvals required to construct and operate the Full-Scale Project. Sanitation District will cooperate with Metropolitan in securing such permits, authorizations and approvals.

Utilities

Except for disposal of treatment residuals, Metropolitan responsible for providing any and all utility connections and services needed to construct and operate the Full-Scale Project.
TERM SHEET FOR POTENTIAL REGIONAL RECYCLED WATER PROGRAM AGREEMENT WITH SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY

SOURCE WATER

General Obligation

Sanitation District will provide Source Water in amount sufficient to meet the treatment capacity of Full-Scale Project as constructed at no cost to Metropolitan.

Prior to final design for each phase of project, Parties will agree on the water quality and flow criteria that will apply to any Source Water delivered to the project during that phase ("Source Water Criteria"). Once these criteria are established, Sanitation District will not make any changes in Joint Plant facilities, operations or design that may significantly adversely affect quality or quantity of Source Water, unless required to meet regulatory requirements. The Parties shall meet and confer in good faith to determine appropriate actions, if changes are required.

Sanitation District will not enter into any agreement to provide secondary-treated effluent to another entity or project that could significantly reduce amount of Source Water available to Full Scale Project without Metropolitan’s consent.

If circumstances beyond control of Sanitation District adversely impact quality or volume of Source Water, its Chief Engineer may temporarily limit amount of Source Water made available to Full Scale Project. Sanitation District will use best efforts to reestablish availability of Source Water.

Sanitation District not liable for any costs or damages resulting from a temporary interruption in service or limitation of availability of Source Water due to decreased influent flows, operation difficulties, or an inability of Sanitation District to meet NPDES requirements.

Source Water Facilities

Construction: Sanitation District will design and construct any facilities necessary for Source Water Joint Plant Tie-Ins ("Tie-In Facilities").

Ownership and Operation: Sanitation District will be sole owner of Source Water Tie-In Facilities and will operate and maintain these facilities for the duration of the Agreement Term.

Permits and Authorizations: Sanitation District will secure any permits, authorizations and approvals required to construct and operate the Source Water Tie-In Facilities. Metropolitan will cooperate with Sanitation District in securing such permits, authorizations and approvals.
TERM SHEET FOR POTENTIAL REGIONAL RECYCLED WATER PROGRAM
AGREEMENT WITH SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY

Source Water Control Program

Prior to commencement of final design for each phase of Full-Scale Project, Parties shall agree on program for controlling entry of contaminants into Source Water delivered to Full-Scale Project during that phase.

OTHER TERMS

Distribution and Use of Purified Water

Metropolitan will be responsible for and have discretion over any distribution, use or disposal of all purified water produced from Full-Scale Project, except as follows:

- Metropolitan will provide Member Agencies within Sanitation District Joint Outfall service area with right of first refusal to purchase purified water on same terms and conditions as would be offered to Metropolitan’s other Member Agencies. Right of first refusal applies solely to amount of purified water estimated to be produced by each phase of Full-Scale Project and must be exercised prior to the commencement of final design for that phase. If excess purified water becomes available from the Full-Scale Project after its construction, Metropolitan will provide Member Agencies within Sanitation District Joint Outfall service area with right of first refusal to purchase such excess on same terms and conditions as would be offered to Metropolitan’s other Member Agencies.

- Metropolitan will provide Sanitation District with an allotment of purified water at no cost based on size of Full-Scale Project’s treatment capacity: (i) 0 to 60 MGD: 600 AFY; (ii) 61 to 100 MGD: 1,300 AFY; (iii) 101 to 150+MGD: 1,800 AFY. Allotment will be delivered to groundwater basins where Metropolitan has suitable facilities, as directed by the Sanitation District.

- Sanitation District has option to purchase up to 1 MGD of additional purified water at Metropolitan’s cost of treatment for Joint Plant uses. Joint Plant uses include those uses identified and implemented during the Demonstration Project. Delivery and use of purified water under this option is responsibility of Sanitation District.
TERM SHEET FOR POTENTIAL REGIONAL RECYCLED WATER PROGRAM
AGREEMENT WITH SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY

Disposal of Treatment Residuals

Sanitation District responsible for disposal of residuals generated by treatment of Source Water at the Full-Scale Project ("Treatment Residuals").

Prior to commencement of final design for each phase of Full-Scale Project, Parties will agree on quantity and quality of Treatment Residuals to be disposed at the Joint Plant during that phase. If anticipated quantity and quality of Treatment Residuals would interfere with Sanitation District’s ability to discharge its waste streams in compliance with applicable laws, rules and regulations, Parties will meet and confer to develop actions within their respective treatment operations to ensure compliance.

Metropolitan will return all Treatment Residuals to suitable locations at Joint Plant, as determined by the Sanitation District prior to commencement of final design for the project.

As needed, Metropolitan will treat non-brine components of Treatment Residuals to standards generally applicable to current industrial waste dischargers.

Connection of the Full-Scale Project to the Joint Plant will not be considered sewer connection. Sanitation District will not assess any charge or fee on Metropolitan for disposal of Treatment Residuals at Joint Plant.

Laboratory Analyses and Data Sharing

Parties will jointly conduct sampling and laboratory analyses as necessary to monitor and determine treatment efficacy of Full-Scale Project. Sanitation District responsible for sampling and laboratory analyses upstream of Demonstration Project; Metropolitan responsible for sampling and laboratory analyses within and downstream of Demonstration Project. Parties will share water quality and process data associated with operation of Joint Plant and Full-Scale Project during term of Program.

Pursuit of Grant and Loan Funding

Parties will jointly pursue grant and loan funding in support of Full-Scale Project. Any funding received will be distributed based on percentage of design and capital costs contributed by each Party in support of Full-Scale Project.
Financial Statement for Demonstration-Scale Recycled Water Treatment Plant Appropriation

A breakdown of Board Action No. 1 for Appropriation No. 15493 for the Demonstration-Scale Recycled Water Treatment Plant¹ is as follows:

<table>
<thead>
<tr>
<th>Labor</th>
<th>Initial Action No. 1 (Nov. 2015)</th>
<th>New Total Appropriated Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner Costs (Program mgmt., permitting, bidding)</td>
<td>$1,480,000</td>
<td>$1,480,000</td>
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<tr>
<td>Submittals Review &amp; Record Drwgs</td>
<td>140,000</td>
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<tr>
<td>Construction Inspection and Support</td>
<td>750,000</td>
<td>750,000</td>
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<tr>
<td>Metropolitan Force Construction</td>
<td>160,000</td>
<td>160,000</td>
</tr>
<tr>
<td>Start-Up, Operational Testing and Reporting</td>
<td>790,000</td>
<td>790,000</td>
</tr>
<tr>
<td>Materials and Supplies</td>
<td>100,000</td>
<td>100,000</td>
</tr>
<tr>
<td>Incidental Expenses</td>
<td>50,000</td>
<td>50,000</td>
</tr>
<tr>
<td>Professional/Technical Services</td>
<td>3,130,000</td>
<td>3,130,000</td>
</tr>
<tr>
<td>Contracts</td>
<td>7,500,000</td>
<td>7,500,000</td>
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<tr>
<td>Remaining Budget</td>
<td>900,000</td>
<td>900,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$ 15,000,000</strong></td>
<td><strong>$ 15,000,000</strong></td>
</tr>
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Funding Request

<table>
<thead>
<tr>
<th>Appropriation Name:</th>
<th>Demonstration-Scale Recycled Water Treatment Plant</th>
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<tbody>
<tr>
<td>Source of Funds:</td>
<td>Revenue Bonds, Replacement and Refurbishment or General Funds</td>
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<tr>
<td>Appropriation No.:</td>
<td>15493</td>
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<tr>
<td>Board Action No.:</td>
<td>1</td>
</tr>
<tr>
<td>Requested Amount:</td>
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<tr>
<td>Budget Page No.:</td>
<td>N/A</td>
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<tr>
<td>Total Appropriated Amount:</td>
<td>$ 15,000,000</td>
</tr>
</tbody>
</table>

¹ This is the initial appropriation for the Demonstration-Scale Recycled Water Treatment Plant.
Need for Resource Development

2010 IRP goals

150 TAF remaining to meet water use efficiency and local supply targets

Projected groundwater production has dropped

Reduction of as much as ~250 TAF in a year

Focus on improving sustainable yield

Diverse resource mix important for reliability
Northern California Runoff

8 of Last 10 Years Below Normal

Normal 18.26

Million Acre-Feet


WATER TOMORROW
Integrated Water Resources Plan
Agencies Are Projecting Lower Groundwater Production
Unique Opportunity

Regional Approach Meets Resource Needs
- Significant, reliable new supply
- Up to 150 MGD
- Favorably located to meet multiple member agency needs
- Importance of timing

Addresses Uncertainty
- Climate change
- Variations in existing supplies
- Demographic & economic change
- Emergency & seismic events
Approach to the Program

- Demonstration Project
- Phased approach to full scale facilities
- Provisions for off-ramps, if necessary
Purpose of Demonstration Project

Provide proof of concept:
Will provide for timely and cost effective implementation
Provide for regulatory acceptance of program
Demonstration Project

Components
- Demonstration Plant (1 MGD)
- Feasibility & environmental studies
- Financing Plan

Duration
- November 2015 to December 2016
Demonstration Plant

Purpose
To ensure quality of purified water for groundwater recharge

Anticipated Activities
Provide water quality data for regulatory acceptance
Coordinate operations with LACSD to ensure source quality/treatment & brine/waste disposal
Optimize full-scale treatment process design
Establish cost clarity for treatment
Provide vehicle for public outreach & acceptance
Feasibility Studies

Purpose
- Evaluate delivery system capability to recharge basins in Los Angeles, Orange and San Bernardino Counties

Anticipated Activities
- Develop program phasing and timing
- Coordinated groundwater modeling and operational assessments
- Regulatory and facility investigations
- Environmental studies
- Agency planning & coordination
Potential Full Program (up to 150 MGD)
Funding and Financing

Purpose
- Assess economic viability of program

Anticipated Activities
- Secure grant & loan opportunities
- Determine cost-sharing opportunities
- Determine approach to funding & rate impacts
- Develop refined capital and O&M estimates
- Develop overall financing plan
Term Sheet Summary: Demonstration Plant

- **LACSD Responsibility:**
  - Deliver secondary-treated water to demo plant
  - Provide land & utilities
  - Dispose of waste streams
  - Perform influent lab analyses & maintain source quality control program

- **Metropolitan Responsibility:**
  - Fund, design, construct, operate & maintain 1 MGD AWT demo plant
  - Conduct Feasibility Studies
Framework for Development of a Full-Scale Program

(if desired to proceed)

Objectives

- Pursue full-scale program per Board direction
- Fairly divide costs and investments
- Avoid conflicts with other recycled water plans
- Codify responsibilities of each agency
Additional Considerations

- Potential Funding Participation
- Avoided capital costs, if any
- Potential State Funding
- Grant funds & SRF low interest loans
- Joint funding application
- Phasing of requests to match progress of program
- CEQA Compliance for Full Scale Phase 1
- AWT plant
- Delivery system
Preliminary Program Timeline

- Demonstration Plant
- Feasibility Studies
- Finance Plan
- Construction
- Operation
- Phased Full Scale Program (if desired to proceed)

Legend:
- Demonstration Program
- Full Scale Program
- Const. & Operation
- Board Action/Info

Dates:
- Nov 2015
- Dec 2016
## Requested Funds

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Contract</td>
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<tr>
<td>Labor</td>
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</tr>
<tr>
<td>PM, permitting, bidding</td>
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</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>$15,000,000</strong></td>
</tr>
</tbody>
</table>
Board Options

Option #1
- Adopt CEQA determination that the proposed action is categorically exempt
- Authorize agreement with County Sanitation District No. 2 to develop demonstration-scale recycled water plant
- Appropriate $15,000,000

Option #2
- Do not proceed with the project at this time
Staff Recommendation

Option #1
Date: January 21, 2016
To: Southeast Water Coalition Administrative Entity
From: Arturo Cervantes, Lead Agency, City of South Gate

Subject: Request for Proposals for Administrative Services

Recommendation: That the Administrative Entity take the following action:

1. Establish an Ad-hoc Committee to develop and issue a Request for Proposal for SEWC Administrative Services.

2. Authorize the Ad-hoc Committee to rank proposals and interview consultants, and negotiate a fee with the highest ranked consultant for consideration by the AE.

Discussion
Since approximately 2008, the Southeast Water Coalition has used the services of a consultant to assist with the administrative activities of the JPA. The current contract with SEWC’s consultant ended on December 31, 2015.

The Administrative Entity needs to prepare and advertise a Request for Proposal, if it is determined that a formal RFP process is required, for a new administrative services consultant. Typically, in the past, SEWC has issued a two-year contract with the selected consultant.

Over the past five years the annual cost for these consulting services has averaged approximately $10,000. Actual future costs will be determined by the level of support required by SEWC and the selected consultant's billing rate.

A general Scope of Work for SEWC’s administrative services consultant is attached.

Attachment(s):
1. Scope of Work
2. Sample SEWC Professional Services Agreement
SEWC Administrative Support
Scope of Work

Monthly Meetings
The consultant shall provide administrative support for the Southeast Water Coalition’s Administrative Entity and Policy Board’s bi-monthly meetings as well as prepare the meetings’ agenda, staff reports (as requested) and the previous meetings’ minutes. Responsibilities also include researching and providing supporting documents for each meetings’ agenda items.

The consultant shall attend each monthly meetings and provide general administrative support including, but not limited to, the following:

1. Provide a meeting sign-in list.
2. Supply additional copies of the agenda packet and copies of supporting documents, as required.
3. Ensure that the approved minutes of the previous meeting are signed by the AE Chair or Policy Board Chair and provide them to the Lead Agency representative for retention.
4. Take minutes at each meeting.
5. Ensure necessary A/V or meeting equipment is provided at the meeting venue.
6. Ensure proper meeting room setup and assist with the coordination of meeting catering, as requested.
6. Provide general administrative support for the monthly meetings.

Monthly Support
The Consultant shall provide general administrative support to the AE and Policy Board. These activities may include the following:

1. Preparation of administrative documents such as the annual budget.
2. Preparation and submittal of State or Federal forms.
3. Preparation and submittal of position letters to regulatory agencies, elected officials, water providers, and other interested parties.
4. The consultant shall assist with the coordination of communication and notifications among the Administrative Entity members and between the AE and the Policy Board.
5. Other duties as assigned.
AGREEMENT FOR
PROFESSIONAL SERVICES
SOUTHEAST WATER COALITION

THIS AGREEMENT is made and entered into this _____ day of October, 2013 by and between the Southeast Water Coalition, a California joint powers entity, (hereinafter referred to as “SEWC”) and KJ Services Environmental Consulting, a sole-proprietorship (“Consultant”).

RECITALS

A. SEWC desires to utilize the services of Consultant as an independent contractor to provide administrative support services.

B. Consultant represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

C. SEWC desires to retain Consultant and Consultant desires to perform these services subject to the terms contained herein.

NOW, THEREFORE, in consideration of performance by the parties of the mutual promises, covenants, and conditions herein contained, the parties hereto agree as follows:

1. Consultant’s Services.

1.1 Scope of Services. Consultant shall perform the professional services necessary to provide administrative support as more particularly described in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full. Consultant shall only perform administrative support services and shall not perform design, engineering or other professional services unless this Agreement is amended to specifically so provide.

1.2 Personnel. Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services under this Agreement. All of the services required under this Agreement will be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services.

1.3 Party Representatives. For the purposes of this Agreement, SEWC Representative shall be the Chairman of the Administrative Entity or such other person designated in writing by the Policy Board of the Southeast Water Coalition (the “SEWC Representative”). For the purposes of this Agreement, the Consultant Representative shall be Kevin Sales (the "Consultant Representative").
1.4 Time of Performance. Consultant shall commence the services contemplated under this Agreement immediately upon receipt of a request for such services from the SEWC Representative and shall perform and complete each task listed during and by the times indicated in Exhibit B.

2. Term of Agreement. The term of this Agreement shall be from January 1, 2013, through December 31, 2015, unless sooner terminated as provided in Section 13 herein.

3. Compensation. Subject to the maximum sums hereafter provided, SEWC shall pay Consultant the fees set forth in Exhibit B upon the completion of each phase of the Project. The maximum amount of compensation which Consultant shall be entitled to receive pursuant to this Agreement is $12,000 for the term set forth in Section 2. SEWC shall not withhold applicable federal or state payroll and other required taxes, or other authorized deductions from each payment made to the Consultant. No claims for additional services performed by Consultant will be allowed unless such additional work is authorized by the SEWC Policy Board in writing prior to the performance of such services or the incurrence of such expenses. Any additional services authorized by the SEWC Policy Board shall be compensated at a rate mutually agreed to by the parties.

4. Method of Payment.

4.1 Invoices. Not later than the fifteenth (15th) day after completion of each phase, Consultant shall submit to SEWC invoices for all services performed. The invoices shall describe in detail the services rendered during the period and shall show the days worked, Administrative Entity meetings attended; number of hours worked, the hourly and flat rates charged, and, for services provided on an hourly rates basis, the services performed for each day in the period. SEWC shall review such invoices and notify Consultant in writing within ten (10) business days of any disputed amounts.

4.2 Payment. SEWC shall pay all undisputed portions of the invoice within thirty (30) calendar days after receipt of the invoice up to the maximum amount set forth in Section 3.

4.3 Audit of Records. Upon SEWC providing 24-hour prior notice, Consultant shall make all records, invoices, time cards, cost control sheets and other records maintained by Consultant in connection with this Agreement available to SEWC for review and audit by SEWC. SEWC may conduct such review and audit at any time during Consultant’s regular working hours.

5. Standard of Performance. Consultant shall perform all services under this Agreement in accordance with the standard of care generally exercised by like professionals under similar circumstances and in a manner reasonably satisfactory to SEWC.

6. Ownership of Work Product. All reports, documents or other written material developed by Consultant in the performance of this Agreement shall be and remain the property of SEWC without restriction or limitation upon its use or dissemination.
by SEWC. Such material shall not be the subject of a copyright application by Consultant. Any alteration or reuse by SEWC of any such materials on any project other than the project for which they were prepared shall be at the sole risk of SEWC unless SEWC compensates Consultant for such reuse.

7. **Status as Independent Contractor.** Consultant is, and shall at all times remain as to SEWC, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of SEWC. Neither SEWC nor any of its agents shall have control over the conduct of Consultant or any of Consultant’s employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of SEWC, provided, however, that nothing contained in this provision shall be construed or interpreted so as to deprive Consultant of any and all defenses or immunities available to public officials acting in their official capacities. Consultant agrees to pay all required taxes on amounts paid to Consultant under this Agreement, and to indemnify and hold SEWC harmless from any and all taxes, assessments, penalties, and interest asserted against SEWC by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers’ compensation law regarding Consultant and Consultant’s employees. Consultant further agrees to indemnify and hold SEWC harmless from any failure of Consultant to comply with applicable workers’ compensation laws. SEWC shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to SEWC from Consultant as a result of Consultant’s failure to promptly pay to SEWC any reimbursement or indemnification arising under this Section 7.

8. **Confidentiality.** Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant to any person or entity without prior written authorization by SEWC. SEWC shall grant such authorization if disclosure is required by law. All SEWC data shall be returned to SEWC upon the termination of this Agreement. Consultant’s covenant under this section shall survive the termination of this Agreement.

9. **Conflict of Interest.** Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant’s services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant shall retain the right to perform similar services for other clients, but Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the SEWC Administrative Entity Chair, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

10. **Indemnification.** Consultant agrees to indemnify, defend and hold harmless SEWC, and its elected officials, officers, attorneys, agents, employees, designated
volunteers, successors and assigns in accordance with the Indemnification and Hold Harmless Agreement and Waiver of Subrogation and Contribution attached hereto as Exhibit A and incorporated herein by this reference. Consultant agrees that Consultant’s covenant under this Section 10 shall survive the termination of this Agreement.

11. **Insurance.** Consultant shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, with an insurance company admitted to do business in California, rated “A” or better in the most recent Best's Key Insurance Rating Guide, and approved by SEWC, workers’ compensation insurance with a minimum limit of $1,000,000 or the amount required by law, whichever is greater.

12. **Cooperation.** In the event any claim or action is brought against SEWC relating to Consultant’s performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation, which SEWC might require.

13. **Termination.** Either party may terminate this Agreement for any reason without penalty or obligation on thirty (30) calendar days written notice to the other party. Consultant shall be paid for services satisfactorily rendered to the last working day the Agreement is in effect, and Consultant shall deliver all materials, reports, documents, notes, or other written materials compiled through the last working day the Agreement is in effect. Neither party shall have any other claim against the other party by reason of such termination.

14. **Notices.** Any notices, bills, invoices, or reports required by this Agreement shall be given by first class U.S. mail or by personal service. Notices shall be deemed received on (a) the day of delivery if delivered by hand or overnight courier service during Consultant’s and SEWC’s regular business hours or by facsimile before or during Consultant’s regular business hours; or (b) on the third business day following deposit in the United States mail, postage prepaid, to the addresses heretofore set forth in the Agreement, or to such other addresses as the parties may, from time to time, designate in writing pursuant to the provisions of this section. All notices shall be delivered to the parties at the following addresses:

If to SEWC: City of Pico Rivera (SEWC Lead Agency)
6615 Passons Boulevard
Pico Rivera, CA 90660
Attn: Arturo Cervantes, Director of Public Works/City Engineer
(562) 949-2525 (Fax Number)

If to Consultant: Kevin Sales
K J Services Environmental Consulting
9020 Hornby Avenue
Whittier, CA 90603
Fax: (562) 944-3267

15. **Non-Discrimination and Equal Employment Opportunity.** In the performance of this Agreement, Consultant shall not discriminate against any employee,
subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

16. Non-Assignability; Subcontracting. Consultant shall not assign or subcontract all or any portion of this Agreement. Any attempted or purported assignment or sub-contracting by Consultant shall be null, void and of no effect.

17. Compliance with Laws. Consultant shall comply with all applicable federal, state and local laws, ordinances, codes and regulations in the performance of this Agreement.

18. Non-Waiver of Terms, Rights and Remedies. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by SEWC of any payment to Consultant constitute or be construed as a waiver by SEWC of any breach of covenant, or any default which may then exist on the part of Consultant, and the making of any such payment by SEWC shall in no way impair or prejudice any right or remedy available to SEWC with regard to such breach or default.

19. Attorney’s Fees. In the event that either party to this Agreement shall commence any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its costs of suit, including reasonable attorney’s fees.

20. Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

21. Entire Agreement. This Agreement, and any other documents incorporated herein by specific reference, represents the entire and integrated agreement between Consultant and SEWC. This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by the parties which expressly refers to this Agreement.

[Signatures begin on next page]
IN WITNESS WHEREOF, the parties, through their respective authorized representatives, have executed this Agreement as of the date first written above.

Southeast Water Coalition

By: __________________________
    Gustavo V. Camacho, Chairman
    SEWC Policy Board

ATTEST:

By: __________________________
    James B. Glancy, Administrative Entity Chairman

APPROVED AS TO FORM:

By: __________________________
    Steve Dorsey
    SEWC Attorney

KJ Sales Environmental Consulting

By: __________________________
    Name: Kevin Sales
    Title: Principal

By: __________________________
    Name: 
    Title:

(Please note, two signatures required for corporations pursuant to California Corporations Code Section 313.)
EXHIBIT A

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT
AND WAIVER OF SUBROGATION AND CONTRIBUTION

Contract/Agreement/License/Permit No. or description: ________________________________

Indemnitor(s) (list all names):

To the fullest extent permitted by law, Indemnitor hereby agrees, at its sole cost and
expense, to protect, defend, indemnify, and hold harmless the Southeast Water Coalition
and its elected officials, officers, attorneys, agents, employees, designated volunteers,
successors, and assigns (collectively "Indemnites") from and against any and all
damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings,
expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees
of accountants, attorneys, or other professionals and all costs associated therewith
(collectively "Liabilities"), resulting from any negligent act, failure to act, error, or omission
of Indemnitor or any of its officers, agents, servants, employees, subcontractors,
materialmen, suppliers or their officers, agents, servants or employees, arising or claimed
to arise, directly or indirectly, out of, in connection with, resulting from, or related to the
above-referenced contract, agreement, license, or permit (the "Agreement") or the
performance or failure to perform any term, provision, covenant, or condition of the
Agreement, including this indemnity provision. This indemnity provision is effective
regardless of any prior, concurrent, or subsequent passive negligence by Indemnites and
shall operate to fully indemnify Indemnites against any such negligence. This indemnity
provision shall survive the termination of the Agreement and is in addition to any other
rights or remedies which Indemnites may have under the law. Payment is not required as
a condition precedent to an Indemnitee's right to recover under this indemnity provision,
and an entry of judgment against the Indemnitor shall be conclusive in favor of the
Indemnitee's right to recover under this indemnity provision. Indemnitor shall pay
Indemnites for any attorneys fees and costs incurred in enforcing this indemnification
provision. Notwithstanding the foregoing, nothing in this instrument shall be construed to
encompass (a) Indemnites' active negligence or willful misconduct to the limited extent
that the underlying Agreement is subject to Civil Code § 2782(a), or (b) the contracting
public agency's active negligence to the limited extent that the underlying Agreement is
subject to Civil Code § 2782(b). This indemnity is effective without reference to the
existence or applicability of any insurance coverages which may have been required under
the Agreement or any additional insured endorsements which may extend to Indemnites.

SEWC agrees to promptly inform Indemnitor in writing of any claim that SEWC believes to
be subject to this Indemnification Agreement.
EXHIBIT A

Indemnitor, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to activities or operations performed by or on behalf of the Indemnitor regardless of any prior, concurrent, or subsequent non-active negligence by the Indemnitees.

In the event there is more than one person or entity named in the Agreement as an Indemnitor, then all obligations, liabilities, covenants and conditions under this instrument shall be joint and several.

"Indemnitor"

Name__________________________  Name__________________________

By:____________________________  By:____________________________

Its

Its

INDEMNIFICATION & HOLD HARMLESS/ WAIVER OF SUBROGATION & CONTRIBUTION

Page 2 of 2

N5222/0006/Y18395.1
SOUTHEAST WATER COALITION
JOINT POWERS AUTHORITY
AGENDA REPORT

Date: January 21, 2016
To: Southeast Water Coalition Administrative Entity
From: Adriana Figueroa, Chair, City of Norwalk

Subject: California State Association of Counties Local Water Initiative - The California Conservation, Flood Control and Stormwater Management Act of 2016

Recommendation: That the Administrative Entity take the following action:

Update and discussion.

Discussion
The California Association of Counties has submitted a proposed initiative to the California Office of the Attorney General and requested that the AG provide a title and summary for the proposed initiative as a first step in the process to get the initiative approved and place on a future State-wide ballot.

The initiative includes a number of measures that would provide for additional funding for water conservation, flood control and stormwater programs and projects.

Attachment(s):
1. CA Water Conservation, Floor Control and Stormwater Management Act of 2016
November 20, 2015

VIA PERSONAL DELIVERY

Ashley Johansson, Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th Floor, P.O. Box 9442 5 5
Sacramento, CA 95 814

Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Johansson:

Pursuant to Article II, Section 10(d) of the California Constitution, we submit the attached proposed Initiative, entitled the "The California Water Conservation, Flood Control and Stormwater Management Act of 2016", to your office and request that your office prepare a title and summary. Included with this submission is the required proponent affidavit pursuant to sections 9001 and 9608 of the California Elections Code, along with a check for $200.00.

All inquiries or correspondence relative to this initiative should be directed to Lance H. Olson and Richard Mladich at Olson, Hagel & Fishburn, LLP, 555 Capitol Mall, Suite 1415, Sacramento, CA 95 814, (916) 442-2952.

Thank you for your assistance.

Sincerely,

Matthew Cate
Executive Director, California State Association of Counties
November 20, 2015

VIA PERSONAL DELIVERY

Ashley Johansson, Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th Floor, P.O. Box 944255

Sacramento, CA 95814

Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Johansson:

Pursuant to Article II, Section 10(d) of the California Constitution, we submit the attached proposed Initiative, entitled the "The California Water Conservation, Flood Control and Stormwater Management Act of 2016", to your office and request that your office prepare a title and summary. Included with this submission is the required proponent affidavit pursuant to sections 9001 and 9608 of the California Elections Code, along with a check for $200.00.

All inquiries or correspondence relative to this initiative should be directed to Lance H. Olson and Richard Miadich at Olson, Hagel & Fishburn, LLP, 555 Capitol Mall, Suite 1415, Sacramento, CA 95814, (916) 442-2952.

Thank you for your assistance.

Sincerely

Timothy Quinn

Executive Director, Association of California Water Agencies
November 20, 2015

VIA PERSONAL DELIVERY

Ashley Johansson, Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th Floor, P.O. Box 944255
Sacramento, CA 95814

Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Johansson:

Pursuant to Article II, Section 10(d) of the California Constitution, we submit the attached proposed Initiative, entitled the "The California Water Conservation, Flood Control and Stormwater Management Act of 2016", to your office and request that your office prepare a title and summary. Included with this submission is the required proponent affidavit pursuant to sections 9001 and 9608 of the California Elections Code, along with a check for $200.00.

All inquiries or correspondence relative to this initiative should be directed to Lance H. Olson and Richard Miadich at Olson, Hagel & Fishburn, LLP, 555 Capitol Mall, Suite 1415, Sacramento, CA 95814, (916) 442-2952.

Thank you for your assistance.

Sincerely

Christopher McKenzie
Executive Director, League of California Cities
The California Water Conservation, Flood Control
And Stormwater Management Act of 2016

SECTION 1. Title

This measure shall be known as the California Water Conservation, Flood Control and Stormwater Management Act 2016

SECTION 2. Findings, Declarations and Purposes

A. California’s historic drought and the likelihood that climate change will increase the severity of droughts and heavy floods mean California must provide local communities with the tools to further encourage conservation and discourage excessive use of water; to effectively manage and increase water supplies; to capture, clean and eliminate pollution from local water sources; and to better protect people and property from the dangers of floods.

B. Effective local management of water supplies includes authorizing local agencies to design rates to encourage water conservation and discourage excessive use of water.

C. Local agencies should also invest in infrastructure to capture and clean water polluted by toxic chemicals and trash; recycle and reuse rainwater and stormwater runoff; and to prevent toxic stormwater and urban runoff from contaminating sources of drinking water, including rivers, lakes, streams, and groundwater, and polluting beaches, coastal waters, and wetlands.

D. California must also improve local flood control by better capturing and managing storm and flood waters and upgrading storm drains, sewer and drainage systems to protect properties from floods and increase local supplies of water available for public use.

E. Existing state laws governing the funding of local water supplies, clean water, water conservation and resource management, and floodwater protection were not developed with California’s current water realities in mind.

F. An alternative method for funding critical local water supplies, water quality, water conservation and resource management, and flood protection projects is needed.

G. This measure establishes an alternative funding method that authorizes local agencies to:
i. Set rates for customers to encourage water conservation, prevent waste, and discourage excessive use of water.

ii. Levy fees and charges, subject to ratepayer protest, for flood control and for management of stormwater to protect coastal waters, rivers, lakes, streams, groundwater and other sources of drinking water from contamination.

iii. Use fees and charges to reduce water, and sewer fees and charges for low-income customers.

H. Any local agency that utilizes this alternative funding method for water service and sewer service should be required to adhere to strict accountability, transparency and ratepayer protections. This includes:

i. Providing local ratepayers with a description of the need for the proposed fee or charge and the projects and purposes projected to be funded by any proposed fee or charge in advance of any public hearing or consideration of the fee or charge;

ii. Posting the description of the proposal on the agency’s Internet website with all applicable exhibits;

iii. Providing local ratepayers a notice of the date and time of the public hearing the local agency will hold on the proposed fee and charges;

iv. If written protests against the fee or charge are presented by a majority of persons to whom the local agency sent the notice about the proposal then the local agency shall not impose, increase or extend the fee or charge;

v. All money must be spent for the local purpose for which the fee or charge was imposed and cannot be taken by state government;

vi. Revenues derived from the fee or charge shall not exceed the reasonable cost to the local agency of providing the water or sewer service or be used for any purpose other than that for which it was imposed;

vii. The manner in which the costs are allocated to a fee payor shall bear a fair or reasonable relationship to the fee payor's burden on or benefits received from the water service or sewer service;

viii. The initiative power of voters may be used to repeal or reduce the fee or charge in the future with the filing of a petition calling for an election on the question;

ix. Independent annual audits shall be made available to the public showing how all funds are spent.

I. This new funding method will allow local agencies to invest in the water supplies, water quality, flood protection and water management and conservation programs we need, while guaranteeing a high level of accountability and ratepayer protections.
SECTION 3. Section 8 is hereby added to Article X of the California Constitution to read as follows:

SEC. 8 Water and Sewer Service

(a) Alternative funding method. This section provides alternative procedures and requirements for funding water service and sewer service independent of any other procedures and requirements in this Constitution for funding these services.

(1) A local agency that adheres to the procedures and requirements of this section, including the strict accountability requirements to protect local ratepayers, may use at its discretion, the provisions of this section instead of any other procedures or requirements in this Constitution for funding the cost of providing water service and sewer service only if undertaken voluntarily and at the sole discretion of the local agency.

(2) The revenues derived from the fees or charges imposed in accordance with this section may only be used by the local agency that imposed, increased or extended the fee or charge, and like other fees or charges imposed, increased or extended by local agencies, the Legislature is prohibited from reallocating, transferring, borrowing, appropriating, restricting the use of, or otherwise using the proceeds of such fees or charges.

(b) Definitions. As used in this section:

(1) “Fee” or “charge” means any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for water service or sewer service having a direct relationship to property ownership.

(2) “Local agency” means any city, county, city and county, including a charter city or county, special district, or any other local or regional governmental entity.

(3) “Property ownership” shall be deemed to include tenancies of real property where tenants are directly liable to pay the fee or charge.

(4) “Sewer service” means any system of public improvements, facilities, projects, or services for the collection, conveyance, conservation, drainage, disposal, recycling or treatment of stormwater, flood water, dry weather runoff, sewage or waste to: (A) conserve and protect sources of drinking water, such as rivers, lakes, streams and groundwater, or the environment, such as beaches, coastal waters, and wetlands, from toxic chemicals, biological contaminants, and other pollutants; (B) protect public health and safety; (C) reduce the risk of flooding of public or private property; or (D) comply with federal or state laws, rules, and regulations.
(5) “Water service” means any system of public improvements, facilities, projects or services intended to provide for the production, management, storage, supply, treatment, recycling, conservation or distribution of water from any source.

(c) Requirements for new, increased or extended fees or charges. A fee or charge for water service or sewer service shall not be imposed, increased, or extended by a local agency pursuant to this section unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the reasonable cost to the local agency of providing the water service or sewer service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(3) The manner in which the costs of the water service or sewer service are allocated to a fee payer shall bear a fair or reasonable relationship to the fee payer’s burden on or benefits received from the water service or sewer service.

(d) Conservation fee or charges; low-income households. A local agency that imposes, extends, or increases a fee or charge pursuant to this section may do either or both of the following:

(1) Allocate the cost of water service or sewer service through a rate structure reasonably designed to encourage water conservation and resource management in furtherance of the policy established in section 2;

(2) Increase the amount of a fee or charge to derive revenues that do not exceed the reasonable cost of reducing such fee or charge for lower-income households.

(e) Notice, public hearing and majority protest. A local agency shall comply with the procedures of this subdivision in imposing, increasing, or extending a fee or charge for water service or sewer service pursuant to this section:

(1) The local agency shall provide written notice by mail of the new fee or charge or the proposed increase in or extension of an existing fee or charge to the fee payer listed in the local agency’s billing, or customer service records or other appropriate records. If the fee or charge is or will be imposed on a parcel, the local agency shall provide written notice to the record owner as provided in paragraph (4). The local agency may include the notice in the agency’s regular billing statement for the fee or charge to the person at the address to which the agency customarily mails the billing statement for water service or sewer service. If the customer is billed only electronically, the agency shall provide notice by mail.
(2) The notice required by paragraph (1) shall include the amount of the fee or charge proposed to be imposed on the recipient of the notice or the basis upon which the amount of the fee or charge will be calculated, together with the date, time and location of the public hearing on the fee or charge. The notice also shall state that if written protests against the fee or charge are presented by a majority of persons to whom the local agency sent the notice required by paragraph (1), then the local agency shall not impose, increase or extend the fee or charge.

(3) The notice required by paragraph (1) shall include a general description of the services, facilities and improvements projected to be funded with the proceeds derived from the new fee or charge or proposed increase in, or extension of the fee or charge. A more complete description of the projected services, facilities and improvements, including any applicable exhibits, shall be made available at an accessible location and on the local agency’s Internet website.

(4) If the local agency desires to preserve any authority it may have to record or enforce a lien on the parcel to which service is provided, the local agency shall also mail notice to the record owner’s address shown on the last equalized assessment roll if that address is different than the billing address.

(5) The local agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice required by paragraph (1). At the public hearing, the local agency shall consider all oral and written protests against the fee or charge. If written protests against the fee or charge are presented by a majority of persons to whom the local agency sent the notice required by paragraph (1), then the local agency shall not impose, increase or extend the fee or charge. One written protest per service address shall be counted in calculating a majority protest pursuant to this paragraph.

(f) Burden of proof. The local agency bears the burden of proving by a preponderance of the evidence that the amount of a fee or charge for water service or sewer service is no more than necessary to cover the reasonable costs of the water service or sewer service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burden on, or benefits received from, the water service or sewer service. A fee or charge levied pursuant to and in compliance with this section is not a tax.

(g) Initiative power for fees or charges. Notwithstanding any other provision of this Constitution, including, but not limited to Sections 8 and 9 of Article II, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any fee or charge for water service or sewer service adopted, increased or extended pursuant to this section. The power of the initiative to affect such fees or charges shall be applicable to all local agencies and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives.
(h) Mandatory audit. Any local agency that approves a fee or charge for water service or sewer service in accordance with this section shall cause to be prepared an independent financial audit of the receipt and expenditure of the revenues derived from the fee or charge. Such an audit may be part of a comprehensive audit of the agency's finances, but the audit shall identify the revenues received and expended in accordance with this section with sufficient clarity to help ratepayers compare the use of the funds to the description provided in paragraph (3) of subdivision (e).

SECTION 4. Severability

If the provisions of this act, or any part thereof, are for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect and to this end the provisions of this act are severable.

SECTION 5. Conflicting Measures

It is the intent of the people that in the event that this measure and another measure relating to the establishment of an alternative method of imposing, increasing, or extending fees or charges to fund water service or sewer service appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure, and if approved by the voters, this measure shall take effect notwithstanding.

SECTION 6. Liberal Construction

The provisions of this act shall be liberally construed in order to effectuate its purposes and the intent of the voters to provide local agencies alternative procedural and substantive requirements for imposing fees and charges for water service and sewer service from those otherwise found in the Constitution.