



**COUNTY OF LOS ANGELES**  
**DEPARTMENT OF PUBLIC WORKS**

*"To Enrich Lives Through Effective and Caring Service"*

900 SOUTH FREMONT AVENUE  
ALHAMBRA, CALIFORNIA 91803-1331  
Telephone: (626) 458-5100  
<http://dpw.lacounty.gov>

**GAIL FARBER, Director**

ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

April 16, 2013

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

**34 April 16, 2013**

*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

**COOPERATIVE AGREEMENT BETWEEN THE  
LOS ANGELES COUNTY FLOOD CONTROL DISTRICT AND THE  
CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER  
PACOIMA SPREADING GROUNDS IMPROVEMENT PROJECT  
(SUPERVISORIAL DISTRICT 3)  
(3 VOTES)**

**SUBJECT**

This action is to enter into a cooperative agreement with the City of Los Angeles Department of Water and Power for the Pacoima Spreading Grounds Improvement Project. The cooperative agreement provides for the City of Los Angeles Department of Water and Power to fund \$15,000,000 of the actual costs incurred for the construction contract of the project, which will be administered by the Department of Public Works on behalf of the Los Angeles County Flood Control District.

**IT IS RECOMMENDED THAT THE BOARD ACTING AS THE GOVERNING BODY OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT:**

Authorize the Chief Engineer of the Los Angeles County Flood Control District or her designee to enter into a cooperative agreement with the City of Los Angeles Department of Water and Power related to funding of the Pacoima Spreading Grounds Improvement Project. The City of Los Angeles Department of Water and Power will provide up to a maximum of \$15,000,000 to the Los Angeles County Flood Control District to fund 50 percent of the project's construction contract costs.

## **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The purpose of the recommended action is to authorize the Chief Engineer of the Los Angeles County Flood Control District (LACFCD) or her designee to enter into a cooperative agreement with the City of Los Angeles Department of Water and Power (DWP). This will result in funding from DWP of up to \$15,000,000 to offset the construction contract costs for the Pacoima Spreading Grounds Improvement Project (Project) to expand and modify the Pacoima Spreading Grounds to increase water conservation.

## **Implementation of Strategic Plan Goals**

The Countywide Strategic Plan directs the provisions of Fiscal Sustainability (Goal 2) and Integrated Services Delivery (Goal 3). This action is consistent with these goals as it will augment LACFCD's funding sources and will maintain a collaborative partnership with a local agency to improve infrastructure to increase water conservation for residents of the County of Los Angeles.

## **FISCAL IMPACT/FINANCING**

There will be no impact to the County General Fund.

The estimated construction contract cost of the Project is currently \$30,000,000. DWP will fund 50 percent of the construction contract cost, up to a maximum of \$15,000,000 to LACFCD. LACFCD will fund the balance of the Project's cost.

The Project will take two years to complete. LACFCD will fund the Project over a period of two fiscal years. Funding will be included in the Flood Control District Fund Budget beginning in the Recommended Fiscal Year 2013-14.

## **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

LACFCD has an ongoing interest and commitment to partner with local agencies to maximize water conservation and groundwater recharge benefits. DWP is a proprietary department of the City of Los Angeles (City) and a municipal utility that provides water and electric services to residents, businesses, and industries in the City. The City possesses the right to the native groundwater of the San Fernando Groundwater Basin. DWP has historically utilized local groundwater supply to support approximately 12 percent of the City's total water demand. The Pacoima Spreading Grounds recharges the San Fernando Groundwater Basin. LACFCD owns and operates the Pacoima Spreading Grounds.

LACFCD proposes to modify the spreading grounds and enlarge the spreading basins. The Project will increase the capacity and percolation rate of the spreading grounds and provide for increased groundwater recharge within the San Fernando Groundwater Basin.

LACFCD will complete design plans and specifications; schedule construction of the Project; and be responsible for environmental documentation, permitting, administration, and project management. The Department of Public Works will return to the Board for Project approval.

DWP will provide up to \$15,000,000 to LACFCD for the Project's construction contract costs. The cooperative agreement will be substantially similar in form and content to the enclosed agreement, which will be approved as to form by County Counsel prior to execution by the Chief Engineer or her designee.

### **ENVIRONMENTAL DOCUMENTATION**

In accordance with Section 15378(b)(4) of the California Environmental Quality Act (CEQA) guidelines, approval of the recommended action does not constitute a project, and hence, is not subject to the requirements of CEQA. This proposed action would create a government funding mechanism that does not involve a commitment to a specific project, which may result in a potentially significant impact on the environment.

LACFCD will act as the lead agency for compliance with CEQA and will return to the Board for consideration of the appropriate environmental documentation and Project approval prior to undertaking any activities that constitute a project. Under the terms of the cooperative agreement, LACFCD may terminate the Project in its sole discretion, including if environmental review of the Project under CEQA discloses that the Project or a portion thereof will have a significant environmental impact that cannot be mitigated.

### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The approval to enter into the cooperative agreement will offset the construction costs of a project that ultimately enhances groundwater recharge in the San Fernando Groundwater Basin and increases the local water supply for residents of the County of Los Angeles.

The Honorable Board of Supervisors

4/16/2013

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**CONCLUSION**

Please return one adopted copy of this letter to the Department of Public Works, Water Resources Division.

Respectfully submitted,

A handwritten signature in black ink that reads "Gail Farber". The signature is written in a cursive, flowing style.

GAIL FARBER

Director

GF:CS:yg

Enclosures

c: Chief Executive Office (Rita Robinson)  
County Counsel  
Executive Office

**MEMORANDUM OF AGREEMENT BETWEEN THE LOS ANGELES  
COUNTY FLOOD CONTROL DISTRICT AND THE LOS ANGELES  
DEPARTMENT OF WATER AND POWER REGARDING  
PACOIMA SPREADING GROUNDS IMPROVEMENT PROJECT**

**A G R E E M E N T**

This Memorandum of Agreement (Agreement) is made and entered into by and between the Los Angeles County Flood Control District (District), and the City of Los Angeles Department of Water and Power (LADWP) collectively referred to as "Parties."

**W I T N E S S E I H**

WHEREAS, the City of Los Angeles (City) is home to approximately 4 million residents who depend on reliable sources of water; and

WHEREAS, 88 percent of the water supply in the City is imported from sources outside of the region; and

WHEREAS, in addition to imported water, the local water supply is a reliable source of water that depends on groundwater recharged from a variety of sources, including stormwater; and

WHEREAS, local groundwater supply is a key resource that LADWP has historically utilized to support approximately 12 percent of the City's total water demand; and

WHEREAS, capturing additional stormwater to augment groundwater recharge is vital to sustain the long-term reliability of the City's local groundwater supply; and

WHEREAS, the City's water rights in five local groundwater basins are adjudicated, with the San Fernando Groundwater Basin (Basin) being the largest of the five basins; and

WHEREAS, the City possesses the right to the surface waters of the Los Angeles River and the native groundwater of the Basin in accordance with the California Supreme Court case of *The City of Los Angeles vs. City of San Fernando*, et al., (1975) 14 Cal. 3d 199 and of the Judgment *The City of Los Angeles vs. City of San Fernando*, et al., Los Angeles Superior Court Case No.650079, (January 26, 1979); and

WHEREAS, the City is a beneficiary of stormwater capture and recharge that may improve the condition of the Basin and potentially increase the long-term native safe yield to augment the City's local water supply; and

WHEREAS, LADWP and the District are committed to pursuing opportunities to enhance stormwater capture and groundwater recharge that may improve the condition of the Basin and potentially increase the long-term native safe yield to augment the City's local water supply; and

WHEREAS, the District is a special district organized and operating under the provisions of the Los Angeles County Flood Control Act; and

WHEREAS, pursuant to the Los Angeles County Flood Control Act, the District owns and manages flood control and water conservation facilities in the Los Angeles County (County), and said efforts result in the capture of stormwater used to replenish groundwater basins in the County, including the Basin; and

WHEREAS, the District owns and operates the Pacoima Spreading Grounds to recharge groundwater in the Basin; and

WHEREAS, the District has historically recharged approximately 6,900 acre-feet of stormwater at Pacoima Spreading Grounds per year on average, which comprises a portion of the native safe yield of the Basin; and

WHEREAS, the District proposes to improve the Pacoima Spreading Grounds by replacing the existing radial gate at the intake with a rubber dam; replacing the intake canal with underground pipes, reconfiguring, expanding, and deepening the spreading basins; and modernizing structures and increasing percolation and volume capacity at the facility in order to increase groundwater replenishment of the Basin; and

WHEREAS, when constructed, the Pacoima Spreading Grounds Project will increase the recharge capacity at Pacoima Spreading Grounds by approximately 10,500 acre-feet per year, which will significantly increase the amount of stormwater that is captured and recharged into the Basin; and

WHEREAS, the District currently estimates the construction contract cost of the Pacoima Spreading Grounds Project to be up to \$30 million; and

WHEREAS, LADWP agrees to provide up to \$15 million to the District for the Pacoima Spreading Grounds Project's construction cost.

NOW, THEREFORE, in consideration of the mutual benefits to be derived by the Parties, it is hereby agreed as follows:

(1) DISTRICT AGREES:

- a. To develop one hundred percent (100%) design plans and specifications for the Pacoima Spreading Grounds Project.
- b. To advertise the Pacoima Spreading Grounds Project for construction bids, to award and administer the construction contract(s) and to cause the Pacoima Spreading Grounds Project to be constructed in accordance with the said plans and specifications.
- c. To use LADWP funds solely for actual construction costs, activities performed by the District's contractors and subcontractors and shall not be used for staff, administration or management of any aspect of the Pacoima Spreading Grounds Project.
- d. To make changes or modifications to the plans and specifications for the Pacoima Spreading Grounds Project as necessitated by unforeseen or unforeseeable conditions encountered during final design and/or construction and to consult with LADWP on any fundamental design changes.
- e. To provide quarterly progress reports to LADWP through the completion of the Pacoima Spreading Grounds Project that should include the schedule, budget, work completed during the previous quarter, and an estimate of the percent completion. Progress reports shall be submitted to LADWP within 45 calendar days of the end of each respective quarter. Quarters shall be defined as the periods from January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31.
- f. To provide reasonable notice to LADWP to participate in the Pacoima Spreading Grounds Project meetings.
- g. Upon approval of the Agreement by both Parties, to prepare and send invoice(s) to LADWP for the monetary funds as described in Section (2), paragraphs a and b, below.
- h. To fund the design and/or construction contract(s) and/or construction management and/or construction contingency cost(s) of the Pacoima Spreading Grounds Project in excess of LADWP maximum contribution, as described in Section (2), paragraphs a and b, below. LADWP shall not be obligated to provide additional funding towards the completion of the Pacoima Spreading Grounds Project as called for in this Agreement.

- i. To submit a reimbursement(s) to LADWP of any unused LADWP funds within 90 calendar days after the Pacoima Spreading Grounds Project completion or expiration/termination of this Agreement as described in Section (3), paragraph a and e, below.
- j. To use generally acceptable accounting practices applicable to public agencies to account for, transfer, and reimburse funds deposited for the Pacoima Spreading Grounds Project.
- k. The District, on behalf of itself and any and all of its contracted design engineering, geotechnical firms and construction contractors; agrees to indemnify, defend, and hold harmless LADWP and its board, officers, agents, and employees from and against any claims, demands, liability, damages, costs and expenses, including, without limitation, attorney fees and costs of litigation and claims involving bodily injury, death or personal injury of any person or property damage of any nature whatsoever, including any environmental damage or harm, or which arise out of any act or omission or willful misconduct of the District or its board, officers, agents, employees, or which arise out of any act, error, omission or willful misconduct caused or alleged to be caused by any of the District's contractors or subcontractors of any tier in any way relating to this Agreement. This indemnification shall apply except in the event of a claim or demand arising from the sole negligence or willful misconduct of LADWP, its board, officers, agents, or employees.

The provisions of this section shall survive expiration or termination of this Agreement.

(2) LADWP AGREES:

- a. To fund 50 percent to District for cost associated with the construction contract(s) up to a maximum amount of \$15 million for the Pacoima Spreading Grounds Project as described in Section (1), paragraph c, above.
- b. Upon approval of Agreement by both parties, to pay the District up to \$15 million for the Pacoima Spreading Grounds Project, which will be paid in three payments. The first payment of \$3 million will be paid after execution of this Agreement within 90 days of receipt of invoice. The second and third payments of \$6 million each will be paid within 90 days of receipt of invoice in Fiscal Years 2013-14 and 2014-15, respectively.
- c. To provide reasonable notice to District of its request to participate in the Pacoima Spreading Grounds Project meetings; however, the District's determinations regarding the Pacoima Spreading Grounds Project will be final.



- d. The Contract Administrator for LADWP shall be LADWP's Director of Water Resources, or his designee.
- e. To indemnify, defend, and hold District and its respective officers, employees, and agents harmless from and against any claims, demands, liability, damages, costs and expenses, including without limitation, involving bodily injury, death or personal injury of any person or property damage of any nature whatsoever, arising out of any act, error, omission, or willful misconduct in performance of LADWP's obligations under this Agreement. This indemnification shall apply except in the event of a claim or demand arising from the sole negligence or willful misconduct of the District, its board, officers, agents, or employees.

The provisions of this section shall survive expiration or termination of this Agreement.

(3) IT IS MUTUALLY UNDERSTOOD AND AGREED:

- a. This Agreement may be executed in separate parts by the Parties. The Agreement shall be effective upon the date it is executed by all Parties and will expire by its own operation four (4) years after execution, unless extended or sooner terminated by mutual written agreement by all Parties. All work described in Section (1), above, shall be completed by the expiration of this Agreement.
- b. The District shall have the right to reject all bids after notifying LADWP and may re-advertise the Pacoima Spreading Grounds Project if the District deems such action is to be in the best interests of the District.
- c. Each party shall have no financial obligation to the other party under this Agreement, except as herein expressly provided.
- d. At the sole discretion of the District, the Pacoima Spreading Grounds Project may be designed, advertised, awarded, and constructed in up to two separate construction contracts.
- e. In determining the amount of LADWP'S contribution described in Section (2), paragraphs a and b, above, the actual construction costs for the Pacoima Spreading Grounds Project, and therefore LADWP'S portion thereof, shall be reduced by one-half of the amount of any grant funding or other outside funds for the construction contract(s) costs of the Pacoima Spreading Grounds Project, that may be secured by the District or LADWP.

- f. This Agreement may be modified only by mutual written consent of District and LADWP. Amendments and modifications of a nonmaterial nature may be made by the mutual written consent of the Parties' Directors or their delegates.
- g. Notwithstanding any other provision of this Agreement, District may terminate this Agreement as to the Pacoima Spreading Grounds Project if it determines, in its sole discretion, not to proceed with the Pacoima Spreading Grounds Project. In the event that District terminates this Agreement as to the Pacoima Spreading Grounds Project, pursuant to this paragraph, or if District fails to complete the Pacoima Spreading Grounds Project in accordance with this Agreement, the District shall return any unused funds for the Pacoima Spreading Grounds Project previously deposited by LADWP pursuant to this Agreement, if any. The District shall also return an accounting of the funds applied to the Pacoima Spreading Grounds Project with a copy of any completed or work in progress design documents and shall have no further obligation or liability to LADWP or City for any act, error, omission, or willful misconduct in performance of this Agreement as to the Pacoima Spreading Grounds Project.

The provisions of this section shall survive expiration or termination of this Agreement.

(4) RIGHT TO AUDIT

The District shall maintain, and shall cause the District's consultants and/or suppliers as applicable to maintain all records pertaining to the management of this Agreement, and related subcontracts, and performance of services pursuant to this Agreement, in their original form, including but not limited to, reports, documents, deliverables, employee time sheets, accounting procedures and practices, records of financial transactions, and other evidence, regardless of form (e.g., machine readable media such as disk, tape, etc.) or type (e.g., databases, applications software, database management software, utilities, etc.), sufficient to properly reflect all costs claimed to have been incurred and services performed pursuant to this Agreement. If the District, the District's consultants and/or suppliers are required to submit cost or pricing data in connection with this Agreement, the District shall maintain all records and documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. All records shall be retained, and shall be subject to examination and audit by LADWP personnel or by LADWP'S agents (herein after referred to as Authorized Auditors), for a period of not less than five (5) years following payment made by LADWP hereunder or the expiration date of this Agreement, whichever is later.

The District shall make said records or to the extent accepted by the Authorized Auditors, photographs, micro-photographs, etc. or other authentic reproductions thereof, available to the Authorized Auditors at the District's offices at all

reasonable times and without charge. The Authorized Auditors will have the right to reproduce, photocopy, download, transcribe, and the like any such records. Any information provided by the District on machine-readable media shall be provided in a format accessible and readable by the Authorized Auditors. The District shall not, however, be required to furnish the Authorized Auditors with commonly available software.

The District, and the District's contractors, consultants and/or suppliers, as applicable to the services provided under this Agreement, shall be subject at any time within sixty (60) calendar days, prior written notice to audits or examinations by Authorized Auditors, relating to all billings and to verify compliance with all Agreement requirements relative to practices, methods, procedures, performance, compensation, and documentation.

Examinations and audits will be performed using generally accepted auditing practices and principles and applicable City, County, State and Federal government audit standards. For consultants, subconsultants, and suppliers that utilize or are subject to Federal Acquisition Regulation (FAR), Parts 30 and 31, et seq. accounting procedures, or a portion thereof, examinations and audits will utilize such information.

To the extent that the Authorized Auditor's examination or audit reveals inaccurate, incomplete or noncurrent records, or records are unavailable, the records shall be considered defective.

Consistent with standard auditing procedures, the District will be provided sixty (60) calendar days to review the Authorized Auditor's examination results or audit and respond to LADWP prior to the examination's or audit's finalization and public release.

The District shall contractually require all contractors, consultants and suppliers performing services under this Agreement to comply with the provisions of this section by inserting this provision PSC-22 in each contractor's contract and by contractually requiring each subcontractor to insert this provision PSC-22 in any of its subcontractor contracts related to services under this Agreement. In addition, the District, their contractors, consultants, and/or suppliers, shall also include the following language in each contract:

“The Los Angeles Department of Water and Power (LADWP) is a third party beneficiary of the foregoing audit provision. The benefits of the audit provision shall inure solely for the benefit of LADWP. The designation of LADWP as a third party beneficiary of the audit provision shall not confer any rights or privileges on the District, contractors, consultants or any other person/entity.”

The provisions of this section shall survive expiration or termination of this Agreement.

(5) NOTICES

All notices provided under this Agreement must be in writing and, unless otherwise provided herein, shall be deemed validly given on the date either: (1) personally delivered to the address indicated below; or (2) on the third business day following deposit, postage prepaid, using certified mail, return receipt requested, in any United States Postal mailbox or at any United States Post Office; or (3) on the date of transmission by facsimile to the number provided below. All notices, demands, or requests shall be addressed to the following:

LADWP: Mr. David R. Pettijohn  
Director of Water Resources  
Los Angeles Department of Water and Power  
111 North Hope Street, Room 1460  
Los Angeles, CA 90012  
Phone: (213) 367-0899

DISTRICT: Mr. Christopher Stone  
Assistant Deputy Director  
County of Los Angeles  
Department of Public Works  
Water Resources Division  
P.O. Box 1460  
Alhambra, CA 91802-1460  
Phone: (626) 458-6100

(6) COMPLETE AGREEMENT

This Agreement contains the full and complete Agreement between the District and LADWP. No verbal agreement or conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed by their respective officers, duly authorized, by the LADWP on \_\_\_\_\_, 2013, and by the DISTRICT on \_\_\_\_\_, 2013.

LOS ANGELES COUNTY  
FLOOD CONTROL DISTRICT,  
A body corporate and politic

By \_\_\_\_\_  
Chief Engineer

APPROVED AS TO FORM:

JOHN F. KRATTLI  
County Counsel

By \_\_\_\_\_  
Deputy

DEPARTMENT OF WATER AND  
POWER OF THE CITY OF  
LOS ANGELES

By \_\_\_\_\_  
Ronald O. Nichols  
General Manager

By \_\_\_\_\_  
Barbara E. Moschos  
Secretary