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AMENDED

Memorandum of Understanding for Integrated Regional Water Management in the Monterey Peninsula, Carmel Bay, and South Monterey Bay Region

1. PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to recognize a mutual understanding among entities in the southern Monterey Bay area regarding their joint efforts toward Integrated Regional Water Management (IRWM) planning. That understanding will continue to increase coordination, collaboration and communication for comprehensive management of water resources in the cities and unincorporated portions of the Monterey Peninsula, Carmel Bay, and South Monterey Bay Region (Region).

- A. **Background and Description of Amendments.** The initial MOU to form a Regional Water Management Group (RWMG) was fully executed on July 22, 2008 by the Big Sur Land Trust (BSLT), a 501 (c) 3 organization, the City of Monterey, the Monterey Regional Water Pollution Control Agency (MRWPCA), the Monterey County Water Resources Agency (MCWRA), and the Monterey Peninsula Water Management District (MPWMD). The MOU formed a Regional Water Management Group (RWMG) for the purposes of developing and implementing projects consistent with the guidelines set by the State of California for IRWM.

Subsequently, the Marina Coast Water District (MCWD) requested approval to become part of the RWMG and signed an amended MOU in June 2011 that includes MCWD as a member of the RWMG. In 2012, the MOU was amended to include the Resource Conservation District of Monterey County (RCD) as a member of the RWMG. In 2015, the City of Seaside was recommended for addition to the RWMG.

In 2014, voters passed Proposition 1, the Water Quality, Supply, and Infrastructure Improvement Act of 2014 the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act (Public Resources Code, sections 79700 - 79798), which authorizes the Legislature to appropriate funding for competitive grants for Integrated Regional Water Management (IRWM) projects. Funding is administered by the Department of Water Resources (DWR).

In 2015, representatives from the RWMGs representing the Central Coast region entered into discussions about a funding area allocation agreement for Proposition 1 funds allocated to the Central Coast funding area. Negotiations have resulted in a draft agreement that is acceptable to all RWMGs.

This amended MOU reflects the addition of the City of Seaside as a member of the RWMG and amends the MOU to authorize MPWMD to execute a funding area agreement on behalf of the RWMG.

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2. RECITALS

- A. The State of California desires to foster Integrated Regional Water Management (IRWM) planning and encourages local public, non-profit, and private (for profit) entities to define planning regions appropriate for managing water resources and to integrate strategies within these planning regions.
- B. Water resources management authority in the Region is currently distributed among various public agencies with a range of legal powers and regulatory responsibilities. These public agencies have definite jurisdictional boundaries, whereas sensible water resources planning and management frequently requires actions in multiple jurisdictions. Non-public entities within the Region have considerable interests in cooperating with public entities to protect, manage, and enhance water resources within the Region.
- C. ~~Seven~~ Six public entities and one non-profit entity in the Region with responsibility and interests in the management of water resources have agreed to form a Regional Water Management Group for the purposes of developing and implementing projects consistent with the guidelines set by the State of California for IRWM. These entities are:
- Big Sur Land Trust (BSLT), a 501 (c) 3 organization;
 - City of Monterey;
 - City of Seaside
 - Monterey Regional Water Pollution Control Agency (MRWPCA);
 - Monterey County Water Resources Agency (MCWRA);
 - Marina Coast Water District (MCWD);
 - Resource Conservation District of Monterey County; and
 - Monterey Peninsula Water Management District (MPWMD).
- D. The Regional Water Management Group has defined an appropriate planning Region that takes into consideration jurisdictional limits, powers and responsibilities, and watershed and groundwater basin boundaries. The Regional Water Management Group is taking the lead in overseeing and implementing a detailed IRWM Plan within the planning Region. The Region is generally described as encompassing approximately 347 square miles and consists of groundwater basins and coastal watershed areas contributing to the Carmel Bay and south Monterey Bay. The Region includes coastal watersheds from the southernmost portion of the San Jose Creek watershed north to the northern limit of the Seaside Groundwater Basin. The inland area is bounded by the Seaside Groundwater Basin to the north and by the Carmel River watershed to the south and east. The western limit of the planning Region generally coincides with the land and Pacific Ocean interface, but includes the Pt. Lobos, Carmel Bay, and Pacific Grove Areas of Special Biological Significance (ASBS) adjacent to the coastal portion of the Region.

The principal groundwater basins in the planning Region are the Seaside Groundwater Basin and the Carmel Valley Aquifer. The Region includes about 38 miles of the coast within the Monterey Bay National Marine Sanctuary, three ASBS, the Cities of Carmel-by-the Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City, Seaside, and unincorporated portions of Monterey County including the Carmel Valley watershed (255

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square miles), Pebble Beach, the Carmel Highlands and portions of the Seaside Groundwater Basin adjacent to Highway 68 (also known as Canyon Del Rey). This description of the planning Region is not intended to be a limitation on projects and resource planning that may be shared between adjacent IRWM planning Regions (e.g., the Greater Monterey County IRWM planning Region to the north and east).

- E. The entities signatory to this MOU desire to link and integrate efforts to jointly oversee the development and implementation of a comprehensive Integrated Regional Water Management Plan for the Region and to allocate Proposition 1 IRWM funding within the planning Region.

3. GOALS

The goals of the collaborative effort undertaken pursuant to this MOU are:

- 3.1 To implement a comprehensive IRWMP for the Region that will consider the strategies that are required by the State under CWC 79562.5 and 79564 and subsequent modifications required under Proposition 84 and Proposition 1. Eligible projects must yield multiple benefits and include one or more of the following elements (PRC § 75026.(a)):

- ↻ **Water supply reliability, water conservation and water use efficiency**
- ↻ **Stormwater capture, storage, clean-up, treatment, and management**
- ↻ **Removal of invasive non-native species, the creation and enhancement of wetlands, and the acquisition, protection, and restoration of open space and watershed lands**
- ↻ **Non-point source pollution reduction, management and monitoring**
- ↻ **Groundwater recharge and management projects**
- ↻ **Contaminant and salt removal through reclamation, desalting, and other treatment technologies and conveyance of reclaimed water for distribution to users**
- ↻ **Water banking, exchange, reclamation and improvement of water quality**
- ↻ **Planning and implementation of multipurpose flood management programs**
- ↻ **Watershed protection and management**
- ↻ **Drinking water treatment and distribution**
- ↻ **Ecosystem and fisheries restoration and protection**

- 3.2 To implement a comprehensive IRWMP for the Region that incorporates water supply, water quality, flood and erosion protection, and environmental protection and enhancement objectives.

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- 3.3 To improve and maximize coordination of individual public, private, and non-profit agency plans, programs and projects for mutual benefit and optimal gain within the Region.
- 3.4 To help identify, develop, and implement collaborative plans, programs, and projects that may be beyond the scope or capability of individual entities, but which would be of mutual benefit if implemented in a cooperative manner.
- 3.5 To facilitate regional water management efforts that include multiple water supply, water quality, flood control, and environmental protection and enhancement objectives.
- 3.6 To foster coordination, collaboration and communication between stakeholders and other interested parties, to achieve greater efficiencies, enhance public services, and build public support for vital projects.
- 3.7 To realize regional water management objectives at the least cost possible through mutual cooperation, elimination of redundancy, and enhanced regional competitiveness for State and Federal grant funding.

4. DEFINITIONS

- 4.1 **Funding Area Agreement.** The agreement entered into between the six regions within the Central Coast funding area to allocate a portion of Proposition 1 IRWM funds to each planning region.
- 4.2 **Integrated Regional Water Management Plan (IRWMP or IRWM Plan).** The plan envisioned by state legislators and state resource agencies that integrates the strategies, objectives, and priorities for projects to manage water resources proposed by public entities, non-profit entities, and stakeholders within a defined Planning Region. The minimum plan standards are as shown in Appendix A of "Integrated Regional Water Management Grant Program Guidelines, November 2004, Department of Water Resources and State Water Resources Control Board, Proposition 50, Chapter 8," as revised. Minimum IRWM Plan standards may be revised from time to time by the State of California.
- 4.3 **Integration.** The combining of water management strategies and projects to be included in an IRWMP.
- 4.4.a **Lead Agency for IRWM Plan Development.** The Monterey Peninsula Water Management District is designated by the Regional Water Management Group to lead the development or implementation of an Integrated Regional Water Management Plan for the Region.
- 4.4.b **Lead Agency for IRWM Grant Applications.** The Regional Water Management Group may designate any entity in the Regional Water Management Group to be the Lead Agency in making application to the State for grant funds.
- 4.4.c **Lead Agency for Executing a Central Coast funding area agreement.** The entity the Regional Water Management Group designates to represent the Monterey Peninsula Region to execute a Funding Area Agreement.
- 4.5 **Non-profit Agency.** A 501 (c) (3) corporation, conservancy, group or other organization involved in water resources management in the Region.
- 4.6 **Private Agency.** A private or publicly held for-profit corporation or property owner involved in water resources management in the Region.
- 4.7 **Project.** A specific project that addresses a service function.

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- 4.8 **Public Agency.** A state-authorized water district, water agency, water management agency or other public entity, be it a special district, city or other governmental entity, responsible for providing one or more services in the areas of water supply, water quality, wastewater, recycled water, water conservation, stormwater/flood control, watershed planning and aquatic habitat protection and restoration.
- 4.9 **Region.** The area defined by the Regional Water Management Group (RWMG) consisting of watersheds, sub-watersheds and groundwater basins under the jurisdiction of one or more entities within the RWMG.
- 4.10 **Service Function.** A water-related individual service function provided by a private, public, or non-profit entity, i.e. water supply, water quality, wastewater, recycled water, water conservation, stormwater/flood protection, watershed planning, recreational facilities, and habitat protection and restoration.
- 4.11 **Signatory Entity.** A public, private, or non-profit entity within the Region that is signatory to this MOU.
- 4.12 **Stakeholder.** A non-signatory public, private, or non-profit agency identified in the IRWM Plan with an interest in water resources management within the Region.
- 4.13 **Technical Advisory Committee.** The committee organized to advise the Regional Water Management Group and Stakeholders concerning the IRWM Plan. Normally, the group will be comprised of individuals with technical backgrounds in the fields of marine and freshwater biology, ecology, geology, engineering, hydrogeology, planning, resource conservation, riparian systems, water conservation, and water quality. However, stakeholders with interests in a particular aspect of resource or project management, but not necessarily a technical background, may also be considered for inclusion in the TAC.
- 4.14 **Regional Water Management Group.** The group of entities that takes the lead in overseeing the development and implementation of the Integrated Regional Water Management Plan within the Planning Region. The RWMG consists of the Monterey Regional Water Pollution Control Agency, the Monterey County Water Resources Agency, the Monterey Peninsula Water Management District, the City of Monterey, the City of Seaside, the Marina Coast Water District, the Resource Conservation District of Monterey County, and the Big Sur Land Trust.
- 4.15 **Water Management Strategies.** Plans for and activities to be considered in an IRWMP include, but are not limited to, ecosystem restoration, environmental and habitat protection and improvement, water-supply reliability, flood management, groundwater management, recreation and public access, storm water capture and management, water conservation, water quality improvement, water recycling, and wetlands enhancement and creation.

5. IRWMP PARTICIPANTS

- 5.1 **Adopting Entities.** The entities in the Region that participate in the development, adoption, and implementation of the Integrated Regional Water Management Plan for the Region. Each entity intending to carry out a project proposed in the IRWMP must formally adopt the IRWMP or provide written substantiation of acceptance by the governing authority of the entity. For a public agency, adoption of the IRWMP is by formal resolution of the governing body. For a non-profit or for-profit entity,

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proof of acceptance of the IRWMP by the equivalent of a public agency governing body is required (e.g., by a board of directors or other management entity).

- 5.2. **Stakeholders.** Entities, such as other public, private, and non-profit entities, business and environmental groups, that are considered valuable contributors to the understanding and management of the Region's water resources.
- 5.3. **Regulatory Agencies.** These agencies, including, but not limited to, the Central Coast Regional Water Quality Control Board, California Coastal Commission, U.S. Army Corps of Engineers, California Public Utilities Commission, National Marine Fisheries Service (NOAA Fisheries), U.S. Fish and Wildlife Service, and the California Department of Fish and Game, will be invited to participate in the development and implementation of the IRWMP.
- 5.4. **Regional Water Management Group.** The group of entities that takes the lead in developing and implementing an Integrated Regional Water Management Plan within the Planning Region.

6. MUTUAL UNDERSTANDING

- 6.1. **Subject matter scope of the IRWMP.** The IRWMP for the Region will include, but is not limited to, water supply, water quality, wastewater, recycled water, water conservation, stormwater/flood control, watershed planning, erosion prevention, and habitat protection and restoration. It is acknowledged that the proposals contained in the IRWMP may be based, in part, on the land-use plans of the member entities local governments such as Cities, Monterey County, and special districts located within the Region. Therefore, the resultant IRWMP will by design have incorporated the land-use plans and assumptions intrinsic to the respective water-related service function.
- 6.2. **Geographical scope of the IRWMP.** The area for this Memorandum is generally defined as the watersheds and associated groundwater basins contributing to the south Monterey Bay and Carmel Bay as shown in Figure 3-1: Map of Monterey Peninsula Integrated Regional Water Management Planning Region in the IRWM Plan.

The Region includes coastal watersheds from the southernmost portion of the San Jose Creek watershed north to the northern limit of the Seaside Groundwater Basin. The inland area is bounded by the Seaside Groundwater Basin to the north and by the Carmel River watershed to the south and east. The western limit of the planning Region generally coincides with the land and Pacific Ocean interface, but includes the Pt. Lobos, Carmel Bay, and Pacific Grove Areas of Special Biological Significance (ASBS) adjacent to the coastal portion of the Region.

However, it is recognized that the geographic scope represented in the IRWM Plan may be amended to include projects that are implemented cooperatively between IRWM planning regions (e.g., with the Greater Monterey County IRWM planning region) and is not intended to be a rigid boundary.

- 6.3. **Approach to developing the IRWMP.** It will be the responsibility of each entity signatory to this Memorandum to provide the Lead Agency with information for the IRWMP concerning project proposals or to identify the need for a water management strategy for each service function provided by a signatory entity.

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In order to be included in the IRWMP, all proposals for development of water management plans and water development project proposals related to the IRWMP must meet the standards identified in the IRWM Plan for the Region.

A technical advisory committee consisting of staff representatives from the Regional Water Management Group, other Stakeholders and such other organizations as may become contributing entities, will review proposed management plans and project proposals for consistency with the IRWMP and recommend a prioritized list of projects to be carried out within the Region. The Regional Water Management Group and Stakeholders will meet to review the recommendation made by the TAC.

- 6.4. **Approval of prioritized project list.** Approval of the prioritized project list should occur by consensus of the Regional Water Management Group and Stakeholders and should be based on the prioritization process described in the IRWMP and the recommendations of the Technical Advisory Committee. However, if a consensus cannot be reached among the Stakeholders and Regional Water Management Group, the Regional Water Management Group may make a final determination of the prioritized project list.
- 6.5. **Adoption of the IRWMP.** Plan adoption will occur by approval of the governing board of each entity. Each member of the RWMG shall adopt the IRWM Plan or an amended IRWM Plan, when the Plan becomes available. Project proponents named in an IRWM grant application shall adopt the IRWM Plan or amended IRWM Plan prior to submittal of the grant application. It should be noted that the adopted Plan and project list may be amended from time to time as described below.
- 6.6. **Amendment of IRWMP or Prioritized Project list.** The IRWM Plan and prioritized project list may be amended from time to time. Any member of the Regional Water Management Group or Stakeholders may request that the Lead Agency convene a meeting of the Regional Water Management Group and Stakeholders for the purposes of amending the IRWM Plan or the prioritized project list. However, it is anticipated that the IRWMP or prioritized project list will be amended no more frequently than annually, unless more frequent amendments are required to meet State IRWM standards or grant application cycles. An amended IRWM Plan must be consistent with State IRWM standards as described in Definition 4.1 “Integrated Regional Water Management Plan” and any subsequent revisions by the State to IRWM guidelines.
- 6.7. **Project Implementation.** Project proponents will be responsible for completing proposed projects and providing project reports to the Lead Agency.
- 6.8. **Project Monitoring.** The Regional Water Management Group will be responsible for monitoring the implementation of the IRWMP. The technical advisory committee will regularly report to the General Managers and Governing Boards of the Regional Water Management Group regarding progress on the development and implementation of the IRWMP. The Lead Agency will be responsible for coordinating data collection and dissemination.
- 6.9. **Grant Applications.** The Regional Water Management Group will designate a Lead Agency to apply for grant funds. The Lead Agency for each grant application should have a mission and expertise that is consistent with the purpose of the grant being applied for.

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6.10 Central Coast funding area agreement. The RWMG designates MPWMD to execute an funding area agreement on behalf of the Monterey Peninsula Planning Region.

6.11 **Grant Awards and Agreement.** The Lead Agency will be the grantee and administer the grant on behalf of the Regional Water Management Group and Stakeholders.

6.12 **Participation in Regional Water Management Group (RWMG).** Any qualified stakeholder may petition to become a member of the RWMG. A qualified stakeholder must demonstrate the following: a) an interest, responsibility or authority over multiple resources within the region; or b) a unique interest, responsibility, authority, or asset not shared by any other entity within the RWMG. The RWMG shall consider such a request for a change to the RWMG and shall vote by majority to accept or reject the request.

6.13 **Length of Term in Regional Water Management Group.** Members of the RWMG may change from time to time, depending on the level of resources available to each entity. However, there is no required minimum or maximum length of time required as a member of the RWMG. If an entity withdraws from the RWMG, the remaining entities should attempt to replace the interest, responsibility or authority lost by the withdrawal.

6.14 **Rights of the Parties and Constituencies:** This MOU does not provide any added legal rights or regulatory powers to any of the signatory parties, or to the RWMG as a whole. This MOU does not of itself give any party the power to adjudicate water rights, or to regulate or otherwise control the private property of other parties. This MOU does not contemplate the parties taking any action that would adversely affect the rights of any of the parties, or that would adversely affect the customers or constituencies of any of the parties.

6.15 **Termination.** An entity signatory to this MOU may withdraw from participation upon 30 days advance notice to the other signatory entities, provided it agrees to be financially responsible for any previously committed, but unmet resource commitment.

6.16 **Personnel resources.** It is expected that the General Managers and/or other officials of each entity signatory to this MOU will periodically meet to insure that adequate staff resources are available to implement the IRWM Plan.

6.17. **Other on-going regional efforts.** Development of the IRWMP is separate from efforts of other organizations to develop water-related plans on a regional basis around Monterey Bay and the Central Coast. As the IRWMP is developed and implemented, work products may be shared to provide other entities and groups with current information.

~~7. INDEMNIFICATION~~

~~7.1—Each Party shall indemnify, defend and hold harmless the other parties, to the extent allowed by law and in proportion to fault, against any and all third-party liability for claims, demands, costs or judgments (direct, indirect, incidental or consequential) involving bodily injury, personal injury, death, property damage or other costs and expenses (including reasonable attorneys' fees, costs and expenses) arising or~~

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~~resulting from the acts or omissions of its own officers, agents, employees or representatives carried out pursuant to the obligations of this Agreement.~~

~~7.2 These indemnity provisions shall survive the termination or expiration of this Agreement. Further, each Party will be liable to the other Party for attorneys' fees, costs and expenses, and all other costs and expenses whatsoever, which are incurred by the other Party in enforcing these indemnity provisions.~~

78. RECORD OF AMENDMENTS

78.1 June 2010 – add Marina Coast Water District to RWMG. Revise Goals, Definitions and MOU terms to reflect Proposition 84 requirements.

78.2 March 2012 – add process to change RWMG, define when plan is to be adopted, revise to Proposition 84 standards

78.3 August 2012 – add Resource Conservation District of Monterey County to RWMG

7.4 March 2016 – add City of Seaside to RWMG; designate MWPMO to execute and implement a funding area allocation for Proposition 1 funds; remove indemnification clause.

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89. SIGNATORIES TO THE MEMORANDUM OF UNDERSTANDING

We, the duly authorized undersigned representatives of our respective entities, acknowledge the above as our understanding of the intent and expected outcome in overseeing the development and implementation of an Integrated Regional Water Management Plan for the Monterey Peninsula, Carmel Bay, and South Monterey Bay Region.

Signature

Printed Name
**Monterey County Water Resources
Agency**

Date

Signature

Printed Name
Big Sur Land Trust

Date

Signature

Printed Name
**Monterey Peninsula Water Management
District**

Date

Signature

Printed Name
**Monterey Regional Water Pollution
Control Agency**

Date

Signature

Printed Name
City of Monterey

Date

Signature

Printed Name
Marina Coast Water District

Date

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Signature

Printed Name
Board President, Resource Conservation
District of Monterey County

Date

Signature

Printed Name
City of Seaside

Date

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