

BAY AREA CLEAN WATER AGENCIES

Resolution No. 11,591

RESOLUTION AMENDING ANNUAL WORK PLAN FOR FISCAL YEAR 2008-2009, AND AMENDING ANNUAL BUDGET FOR FISCAL YEAR 2008-2009 TO ADOPT PART C FOR A SPECIFIC BENEFIT PROGRAM TO ADMINISTER STATE OF CALIFORNIA GRANT AGREEMENT NO. 4600007654 (WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION ACT OF 2002 (“Prop 50”))

WHEREAS, those Member Agencies of Bay Area Clean Water Agencies (“BACWA”) identified in Column 3 of Attachment 1 hereto (the “Participating Members”, which are also Local Sponsors), along with other entities not members of BACWA (the “Local Sponsors”) and BACWA, have been awarded a grant by the State of California under Prop 50;

WHEREAS, acceptance of such grant and administration of the grant funds by BACWA is desired by such Participating Members, is consistent with the purposes of BACWA under Section 2 of the BACWA Joint Powers Agreement (the “JPA”) and is within the power and authority of BACWA under Section 4 of the JPA;

WHEREAS, administration of such Prop 50 Grant pursuant to California Grant Agreement No. 4600007654 and Implementation Agreements between BACWA and the Participating Members would constitute a program of specific benefit to such Participating Members (the “Prop 50 Grant Administration Special Benefit Program”) and should be identified as such by amendment to BACWA’s Annual Work Plan for fiscal year 2008-2009, and BACWA’s Annual Budget for such fiscal year should be amended to adopt a budget for such Prop 50 special benefit program, as Part C to such Annual Budget, allocating the costs thereof to such Participating Members.

NOW, THEREFORE, BE IT RESOLVED that the Executive Board of BACWA hereby:

1. Amends the BACWA Annual Work Plan for fiscal year 2008-2009 to adopt the Prop 50 Grant Administration Special Benefit Program as a special benefit program for the benefit of the Participating Members. Such Prop 50 Grant Administration Special Benefit Program shall be carried forward into subsequent fiscal year Annual Work Plans as a special benefit program for the Participating Members to the extent not completed in fiscal year 2008-2009 until completed, without further action required by the BACWA Executive Board.
2. Adopts as Part C to the BACWA Annual Budget for fiscal year 2008-2009 administration of the Maximum State Grant Funds referenced in Column 7 of Attachment 1 hereto in accordance with the Part C Budget attached hereto as Attachment 2, allocating the costs and liabilities (except as between BACWA and Participating Members and other Local Sponsors, as provided in Section 58 of the Implementation Agreements) thereof to the Participating Members and other Local Sponsors in the ratio that such Maximum State Grant Funds to each Participating Member and other Local Sponsor bears to the total of the State Prop 50 Grant to such Participating Members and other Local Sponsors, less the grant to BACWA of \$250,000.00 for administration and less the grant amount for Project No. 2, which has been funded by the Participating Members therein. Such Part C Budget,

to the extent not completed in fiscal year 2008-2009, shall carry forward as a Part C budget in subsequent fiscal year Annual Budgets until completed, without further action required by the BACWA Executive Board.

3. Agrees to follow the terms of the Implementation Agreements, including Section 58 entitled, "Indemnification; Proportional Responsibility for Financial Shortfall," to satisfy any and all claims against BACWA under the Prop 50 Grant Administration Special Benefit Program prior to pursuing any separate right of action for same against Participating Members under the BACWA Joint Powers Agreement.

CERTIFICATION

The undersigned Secretary of Bay Area Clean Water Agencies hereby certifies that the foregoing Resolution was duly adopted at a noticed meeting of the Executive Board of Bay Area Clean Water Agencies held on _____, 2008.

By: _____