ATTACHMENT 2. ELIGIBLE APPLICATION DOCUMENTATION

A statement from WRD District Counsel addressing the below questions is included as **Attachment 2A**.

1. Is the applicant a local public agency as defined in CWC 10701(a)? Please explain.
2. What is the statutory or other legal authority under which the applicant was formed and is authorized to operate?
3. Does the applicant have legal authority to enter into a grant agreement with the State of California?
4. Describe any legal agreements among partner agencies and/or organizations that ensure performance of the project and tracking of funds.

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Theresa Wu
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4040 Paramount Blvd.
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Re: Local Groundwater Assistance Program
Eligible Applicant Documentation "EligDoc"
Requested Written Statement

Dear Mrs. Wu:

You have asked our firm, which serves as interim district counsel for the Water Replenishment District of Southern California ("WRD"), to provide a written statement addressing four questions that are identified in the application for grants authorized under the Local Groundwater Management Assistance Act of 2000 (Water Code Section 10795 *et seq.*). This letter shall serve as the requested written statement responsive to the questions identified in the application.

Question No. 1. Is the applicant a local public agency, as provided under CWC Section 10795? Please explain.

WRD is a local public agency as provided under the Local Groundwater Management Assistance Act of 2000, California Water Code Section 10795 *et seq*. In particular, Water Code Section 10795.4 provides in part that money in the fund may be used by the department to assist local public agencies by awarding grants to those agencies to conduct groundwater studies or to carry out groundwater monitoring and management activities in accordance with Part 2.75 of the Water Code or other authority pursuant to which local public agencies manage groundwater resources.

As set forth in greater detail in the response to Question 3, below, WRD carries out groundwater management, studies and monitoring pursuant to its authority under the Water Replenishment District Act, Water Code Section 60000 *et seq*. For instance, Water Code Sections 60222 and 60223 authorize WRD to "take any action necessary to protect or prevent interference with water, the quality thereof, or water rights of persons or property within the district" and, for

purposes of replenishing groundwater supplies within the district, to "do any act in order to put to beneficial use any water under its control or management."

Furthermore, under Water Code Section 60224, WRD is authorized to take any action which is necessary or desirable to accomplish any of the following; (a) prevent contaminants from entering the groundwater supplies of the District, whether or not the threat is immediate; (b) remove contaminants from groundwater supplies of the district; (c) determine the existence, extent, and location of (i.e., monitor) contaminants in, or which may enter, the groundwater supplies of the district; (d) determine persons responsible for those contaminants; and (e) perform or obtain engineering, hydrologic, and scientific studies for any of the foregoing purposes. Accordingly, it is our opinion that WRD is a local public agency as provided under Water Code Section 10795.

Question No. 2. What is the statutory authority under which the applicant was formed and is authorized to operate?

WRD is a California Special District organized in accordance to the laws of the State of California.WRD was formed and is authorized to operate pursuant to the Replenishment act, California Water Code Section 60000 *et seq*. WRD's statutory authority under the Replenishment Act is also confirmed by the Second District Court of Appeal in Central and West Basin Water Replenishment District v. Southern California Water Company, *et al.* (2003) 109 Cal.App. 4th 891.

Question No. 3. Does the applicant have the legal authority to enter into a grant agreement with the State of California?

WRD was formed and currently operates under California Water Code Sections 60000-60622 (the "Replenishment Act"). Part 4, Sections 60220-60232, of the Replenishment Act identifies the WRD's broad powers relating to the replenishment of groundwater within its district and protection of the quality of said groundwater. For example, Section 60220 provides that "a district may do any act necessary to protect or prevent interference with water, the quality thereof, or the rights of any persons or property within the district, subject to the limitations contained in Section 60230." Further, Section 60223 provides that "for the purposes of replenishing the groundwater supplies with in the district, a district may do any act in order to put to beneficial use any water under its control or management." Finally, Section 60232 provides that "each district has the power generally to perform all acts necessary to carry out fully the provisions of this Act."

With respect to the WRD's statutory authority to enter into an agreement to receive a grant for the State of California, it is our opinion that the WRD has such authority. In particular, Section

60230 of the Replenishment Act provides, in relevant part, that "for the purposes of replenishing the groundwater supplies within the district, a district shall have power:

(d) "To take by grant, real and personal property of every kind, within or without the district, necessary or convenient to the full exercise of its power.

(i) To act jointly with or cooperate with… the state, or any county or agency thereof, or any political subdivision or district therein, … to the end that the purposes and activities of the district may fully and economically performed.

(k) To make contracts … for the full exercise the of foregoing powers."

Question No. 4. Describe any legal agreements among partner agencies and/or organizations that ensure performance of the Proposal and tracking of funds.

Effective December 1, 2004, WRD entered into a Memorandum of Understanding ("MOU") with the United States Environmental Protection Agency, the United States Geological Survey, the California Regional Water Quality Control Board, Los Angeles Region, the California Department of Toxic Substances Control and the City of Santa Fe Springs to provide a framework for each agency to share data in order to perform evaluations of known and/or potential sources of contamination within the Central and West Coast Groundwater Basins, WRD's service are, and to coordinate the various activities of the agencies in evaluating known and/or potential sources of contamination on a region-wide basis.

It is our opinion that this MOU is indicative of the collaboration WRD has with partner agencies.

If you have any questions, please feel free to call me.

Very truly yours,

David John Alvarez
Interim District Counsel