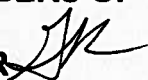



REPORT TO CITY COUNCIL

DATE: SEPTEMBER 23, 2014

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: RAMIRO ADEVA, PUBLIC WORKS DIRECTOR/CITY ENGINEER 

SUBJECT: APPROVE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF AGOURA HILLS AND THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT FOR THE PROPOSITION 84 ROUND 2 INTERGRATED REGIONAL WATER MANAGEMENT IMPLEMENTATION GRANT

As part of the City Council's Budget Workshop held on June 13, 2012, staff was directed to explore funding opportunities in order to naturalize a portion of the concrete flood channel abutting Chumash Park.

These types of projects have shown to have positive impacts to the environment. The benefits of this restoration project would include:

- Creating an area of new riparian ecosystem.
- Reconnecting wildlife migration corridors.
- Improving water quality by increasing dissolved oxygen concentration, increasing vegetative uptake of nutrients (nitrogen and phosphorus), and reducing water temperature by adding vegetated canopy cover.
- Establishing a recreational trail.
- Providing educational information about our watershed.

During this period, a second round of funding became available through Proposition 84. Approved by California voters in 2006, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) authorized \$5.388 billion in general obligation bonds to fund safe drinking water; water quality and supply; flood control, waterway and natural resource protection; water pollution and contamination control; state and local park improvements; public access to natural resources; and water conservation efforts.

Staff worked closely over the next year with the other agencies in the North Santa Monica Bay (NSMB) area, which is a sub-region within the Integrated Regional Water Management Plan (IRWMP) area, to collectively develop a list of projects to recommend that would have a clear benefit to protecting the quality of the region's water resources.

In November 2012, a 16-member panel reviewed the recommendations from all the different sub-regions, and approved adding the Upper Malibu Creek Restoration Project to the final list of projects to be considered by the State for final funding determinations. Subsequently, the regional grant application was approved by the State, and the Los Angeles County Board of Supervisors accepted \$23.4 million in Prop. 84 grant funding on behalf of the Greater LA County Region at their July 9, 2014, meeting. These funds will be distributed across twelve (12) projects indentified within the Greater Los Angeles County Region Integrated Regional Water Management Plan, which includes the Medea Creek Restoration Project.

The City of Agoura Hills was awarded a grant amount of \$1,218,750, with \$304,687 (25%) required as the City's match for the project. However, approximately \$165,000 of the feasibility and design costs may be applied toward the match requirements, lowering the City's obligation to approximately \$139,687. It should be noted the agreement calls for the Los Angeles County Flood Control District to receive 2.5% of this amount for providing administration and oversight of the grant, resulting in a net grant amount of \$1,188,281.

The proposed agreement has been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

Staff respectfully recommends the City Council approve the memorandum of understanding between the City of Agoura Hills and the Los Angeles County Flood Control District for the Proposition 84 Round 2 Integrated Regional Water Management Implementation Grant

Attachments: Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "Agreement"), is made and entered into as of the date of the last Party signature set forth below between the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT (hereinafter referred to as "LACFCD"), and CITY OF AGOURA HILLS (hereinafter referred to as "Local Project Sponsor" or "LPS"). LACFCD and LPS are hereinafter referred to as "Parties" or, each individually, as "Party" for the following project(s): Upper Malibu Creek Watershed Restoration Project (hereinafter referred to as "Project(s)"). The requested grant amount for the Project(s) is \$1,218,750.00.

WITNESSETH

WHEREAS, in November 2006, the voters of California enacted the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act, (hereinafter referred to as Proposition 84), adding provisions to the California Public Resources Code; and

WHEREAS, Proposition 84 amended the Public Resources Code to include Section 75026 et seq., which authorizes the Legislature to appropriate One Billion and 00/100 Dollars (\$1,000,000,000.00) for Integrated Regional Water Management (hereinafter referred to as "IRWM") projects (water resources-related projects that address water supply, water quality, and habitat/open space needs in a region); and

WHEREAS, the intent of the IRWM concept is to encourage integrated regional strategies for the management of water resources and to provide funding through competitive grants for projects that protect communities from drought, improve water reliability, protect and improve water quality, and improve local water security by reducing dependence on imported water; and

WHEREAS, the California Department of Water Resources (hereinafter referred to as "DWR") issued Proposition 84 IRWM Grant Program Guidelines (hereinafter referred to as "Guidelines") in November 2012 to establish the process and criteria to solicit applications, evaluate proposals, and award Proposition 84 grants under the IRWM Grant Program; and

WHEREAS, eligible grant recipients under the Guidelines are public agencies defined as a City, County, City and County, District, joint powers authority, State agency or Department, or other political subdivision of the State, and nonprofit organizations defined as any California corporation organized under Sections 501(c)(3), 501(c)(4), or 501(c)(5) of the Federal Internal Revenue Code. Other entities that are part of the regional water management group responsible for applying for the grant may perform work funded by the grant; and

WHEREAS, under the Guidelines, IRWM Implementation grant proposals must be

submitted by an IRWM Region that was accepted into DWR's IRWM Grant Program through the 2009 Region Acceptance Process and must: (1) include projects that are consistent with an adopted IRWM Plan (hereinafter referred to as "Plan"), (2) require project proponents to adopt the Plan or an update to the Plan, (3) describe specific implementation projects for which funding is being requested, and (4) identify matching funding; and

WHEREAS, the Plan for the Greater Los Angeles County Region (hereinafter referred to as "Region"), adopted on December 13, 2006 and updated in 2014, will facilitate a regional approach to watershed management by establishing collaborative efforts across the watersheds within the Region; and

WHEREAS, the Region was accepted into DWR's IRWM Grant Program through the 2009 Region Acceptance Process in September 2009; and

WHEREAS, the Region's IRWM Group, which includes the Region's participating local entities and the LPSs identified in Exhibit F of the Grant Agreement, designated LACFCD as the regional entity to apply for grant funds on behalf of all proposed projects for the Region, through the IRWM process; and

WHEREAS, the implementation grant proposal for the Region included twelve (12) separate projects sponsored by the LACFCD and the following local entities, solely or jointly, (the projects are identified in Exhibit F to the Grant Agreement between DWR and LACFCD, which Grant Agreement, including all Exhibits thereto, is attached hereto and incorporated herein as Attachment A): the Cities of Agoura Hills, Calabasas, Carson, the City of Los Angeles Department of Public Works' Bureau of Sanitation, Mountains Recreation and Conservation Authority, County Sanitation District No. 2 of Los Angeles County, and West Basin Municipal Water District; and

WHEREAS, for IRWM projects funded under the implementation grant that will be implemented with the participation of more than one entity, it is the intention of the Parties that the LPS will be a single entity that is responsible for implementation of the Project(s) and which has the authority to enter into this Agreement on behalf of all entities participating in the Project(s); and

WHEREAS, LPS assumes all responsibilities and liabilities for the Project(s) under this Agreement (including the Grant Agreement responsibilities allocated to LPS under this Agreement). LPS will be the entity that invoices LACFCD, submits required information, including reports, notices and notifications, to LACFCD and provides any documentation and information requested or required under this Agreement or the Grant Agreement by LACFCD with respect to the implementation of the Project(s). In the event that the Project(s) will be implemented by more than one entity, LPS shall ensure that it has entered into appropriate written agreement(s) with each of the other Project-implementing entities to confirm the authority of LPS to enter into this Agreement on their behalf, and

shall ensure that each of the other Project-implementing entities agrees to defend, indemnify and hold harmless LACFCD to the same extent as the LPS provides to LACFCD in this AGREEMENT. Further, each entity participating in a Project acknowledges full responsibility for the implementation of the Project(s), including all responsibilities identified in this Agreement as well as the Grant Agreement and commits to the fulfillment of their respective obligations with respect to the Project(s). As to LACFCD, LPS remains solely responsible for all aspects of the Project(s); and

WHEREAS, DWR has indicated that it will award an implementation grant of up to Twenty-three Million, Four Hundred Thirty-Three Thousand Nine Hundred Sixty Two and 00/100 Dollars (\$23,433,962) to the LACFCD on behalf of the Region's LPSs; and

WHEREAS, DWR has indicated that it will enter into an agreement (hereinafter referred to as Grant Agreement) with LACFCD, for the administration of the implementation grant funds with respect to the 12 projects, including LPS's Project(s); and

WHEREAS, LPS desires that LACFCD execute the anticipated Grant Agreement with DWR and perform the role of Grantee therein on LPS's behalf so that LPS can receive and benefit from the Proposition 84 grant funds for its Project(s) in the amount to be identified in Exhibit B to the Grant Agreement; and

WHEREAS, LACFCD and LPS desire to enter into this Agreement to clarify their respective responsibilities with respect to the anticipated grant from DWR and the Parties' responsibilities pursuant to the Grant Agreement; specifically, the Parties intend that LACFCD's role will be to administer the grant funding and submit documentation required under the Grant Agreement to DWR on behalf of LPS. LPS will be responsible for all other activities required under the Grant Agreement related to its Project(s), including, but not limited to construction, monitoring, Project management, operations and maintenance and legal compliance; and

WHEREAS, the LPS was awarded a Project grant of \$1,218,750.00, LACFCD will receive 2.5 percent of this grant amount for administration and oversight, resulting in a net grant to the LPS of \$1,188,281.00. The parties intend by this Agreement to establish that LACFCD will directly seek reimbursement of its 2.5 percent administrative costs from DWR, and that the LPS will not pay or seek reimbursement for those LACFCD administrative costs; and

WHEREAS the Parties acknowledge that LACFCD will not approve any aspect of the Project(s) or provide any resources related to implementation of the Project(s) outside of grant funding, if any, which is provided to LACFCD from DWR, specifically for the Project(s).

NOW, THEREFORE, LACFCD and LPS hereby agree as follows:

LACFCD'S RESPONSIBILITIES

Section (1) LACFCD AGREES TO, for as long as the Grant Agreement remains in effect:

- (1) Provide staff to oversee grant administration, manage grant funds and provide Project oversight as related to the grant.
- (2) Establish an independent account to manage the grant funds for each Project and provide routine updates to the LPS of balance and activities of each account.
- (3) Receive from LPS and submit to DWR the reports and information prepared and provided by LPS for each Project as requested by LACFCD and/or as required under the Grant Agreement.
- (4) LACFCD may execute amendments to the Grant Agreement on behalf of LPS, upon written request and approval by LPS and after LPS negotiates with DWR.
- (5) Process grant reimbursement requests submitted by LPS, including, submission of such requests to DWR and, only upon receipt of funds from DWR related to the invoices submitted, provide reimbursement to LPS within thirty (30) days of receipt by LACFCD of funds from DWR.
- (6) Submit grant reimbursement request(s) to DWR, for a total amount not to exceed \$30,469.00 to justify LACFCD administrative costs, management, and project oversight efforts with respect to the IRWM grant, as authorized by DWR and pursuant to Section (2)(8).

LPS'S RESPONSIBILITIES

Section (2) LPS AGREES TO:

- (1) Retain sole and full responsibility for all aspects of LPS's Project(s) as identified in the Grant Agreement, including any approved amendments, including, but not limited to: planning, design, review and approval of plans, specifications, bid documents and construction documents, implementation; construction; management; Project oversight; monitoring; inspections; operation and maintenance; submission of Project reimbursement billing requests; provision of reports, notifications and notices; compliance with all legal requirements related to the Project(s) such as lead agency responsibilities, and all other applicable local, State and Federal statutes and regulations related to the Project(s) for the lifetime of the Project(s) notwithstanding any early termination of this Agreement.
- (2) Plan, design, construct, and continuously operate and maintain LPS's Project(s)

pursuant to LPS's Work Plan as identified in Exhibit A to the Grant Agreement. LPS agrees to notify LACFCD and receive LACFCD's written approval as well as that of DWR in advance of implementing any proposed changes to LPS's Project(s), including proposed future changes to the Work Plan.

- (3) Comply with all terms, provisions and commitments contained in the Grant Agreement, including all exhibits and attachments thereto, applicable to LPS or to LACFCD as Grantee or to representatives of Grantee under the Grant Agreement, whether or not herein specifically referenced, (with the exception of responsibilities identified in Section (1)(1) above which are solely responsibilities of LACFCD) for the lifetime of the Project(s). The Parties agree that responsibilities of LPS, Grantee, representatives of Grantee or activities for which LACFCD (as Grantee) and LPS may be listed as jointly responsible under the Grant Agreement, shall remain the sole responsibility of LPS, with the exception of activities herein listed as LACFCD'S RESPONSIBILITIES.
- (4) Comply with all applicable environmental requirements pertaining to the Project(s), including but not limited to the California Environmental Quality Act (CEQA), the State CEQA Guidelines and, if applicable, the National Environmental Policy Act (NEPA). Submit documents that satisfy the CEQA and NEPA process as well as any mitigation agreements, and environmental permits, including but not limited to DWR's Environmental Information Form. LACFCD is not responsible for any aspect of environmental compliance with respect to the Project(s), including any proposed future changes to LPS's Project(s), and no Project may be implemented absent LPS's compliance with CEQA and other environmental laws and regulations. Prior to submission of each invoice to LACFCD under this Agreement, LPS must submit written confirmation to LACFCD, in a format to be specified by LACFCD, that it has complied with all requirements of the Grant Agreement, including, but not limited to compliance with CEQA and, as applicable, NEPA for LPS's Project(s), including all work covered under the invoice, and shall provide appropriate evidence of its compliance. In addition, LPS agrees to submit written confirmation of CEQA and applicable NEPA compliance prior to implementing any future changes to its Project(s).
- (5) Demonstrate availability of funds to complete the Project by submitting the most recent 3 years of audited financial statements and provide cost share funding match for the LPS's Project in the amount identified in Exhibit B of the Grant Agreement.
- (6) Ensure that any and all permits, licenses and approvals required for its Project(s) are obtained in a timely manner and maintained in effect as legally required.
- (7) Submit not more than one reimbursement request per month to LACFCD, in the format specified by LACFCD, executed by an authorized individual at LPS who is knowledgeable of the information and certifies and warrants the accuracy of the information contained in the reimbursement request.

- (8) Allow LACFCD to be reimbursed by DWR for an amount not to exceed \$30,469.00 or 2.5 percent of the original grant LPS grant amount for grant administrative costs, management, and project oversight efforts with respect to the IRWM as invoiced according to Section (1)(6) above, thereby agreeing that the LPS grant amount of \$1,188,281.00 represents 97.5% of the amount that would otherwise be reimbursed to LPS under this Agreement.
- (9) Prepare, provide and ensure accuracy of all deliverables, reports, documentation, notifications, notices and information related to the Project(s) as required under the Grant Agreement and/or requested by LACFCD to assist LACFCD and to enable LACFCD or LPS to provide information required under the Grant Agreement to DWR in a prompt and timely manner, in accordance with the provisions of the Grant Agreement.
- (10) Inform DWR and the LACFCD of any material changes related to the Project(s) as soon as possible including but not limited to, the progress of construction, Project budget(s), and Project benefits, through reporting process or other methods established by DWR and/or the LACFCD.
- (11) Repay the LACFCD any amount owed to DWR within 90 days of written notification, if for any reason DWR determines that LPS's Project(s) is no longer entitled to grant funds.
- (12) Provide regular and ongoing inspections of construction work in progress and be responsible to keep work under control. Authorize LACFCD to inspect the Project(s), at LACFCD's discretion, to review the progress of the Project(s).
- (13) Accept all liabilities and hold LACFCD legally and financially harmless if it is determined by court of law that LPS's allocation and use of the grant and matching funds is in violation of any applicable statutes, regulations, ordinances, guidelines, or requirements, including, but not limited to, grant requirements, and/or requirements governing contracting, and subcontracting, unless such violation(s) is due to LACFCD's active negligence or willful misconduct.
- (14) Accept sole responsibility for persons performing work related to the Project(s), including, but not limited to, employees, contractors, subcontractors, suppliers and providers of services.
- (15) Accept sole responsibility for any and all disputes arising out of contracts for implementation of the Project(s), including, but not limited to, payment disputes involving representatives of LPS, contractors and subcontractors. LPS acknowledges that LACFCD will not mediate or be involved with disputes between LPS and any other entity concerning responsibility for performance of work related to the Project(s).

- (16) Comply with all Basic Conditions, conditions for disbursement, Continuing Eligibility requirements, and Standard Conditions set forth in the Grant Agreement at all times.
- (17) Designate in writing a Project Manager with the full authority to act on behalf of LPS on any matter related to the Project(s), and advise LACFCD and DWR immediately in writing of any change in Project Manager.

Section (3) TERMINATION OF AGREEMENT

- (1) This Agreement shall remain in effect while the Grant Agreement or any provision of the Grant Agreement remains in effect. LPS's indemnification will remain in effect for the lifetime of the Project(s). Following termination of the Grant Agreement, LPS shall remain solely responsible for any liability, costs or expenses related to its Project(s), including any request for repayment by DWR related to LPS's Project(s) and/or any other costs, fees and/or penalties, such as costs related to allegations of default under Section 14 of the Grant Agreement, which may be asserted against LACFCD by DWR related to the LPS's Project(s). LPS acknowledges that in no event shall LACFCD be responsible for any liability, costs, or expenses related to LPS's Project(s) or for the performance of work on, or the operation or maintenance of, the completed Project(s) as a result of the termination of the Grant Agreement or for any other reason.

Section (4) GENERAL INDEMNIFICATION

- (1) LPS shall indemnify, defend, and hold harmless LACFCD, the County of Los Angeles, Special Districts for which the Board of Supervisors for the County of Los Angeles and LACFCD acts as the governing body, elected and appointed officers, employees and agents from and against any and all liability, including, but not limited to, defense costs, demands, claims, allegations of default or breach of the Grant Agreement or this Agreement, actions, fees, costs and expenses (including attorney and expert witness fees) arising from or relating to: acts or omissions of the LPS related to its Project(s) and/or any acts or omissions of LACFCD made on behalf of or for the benefit of LPS pursuant to this Agreement, including, but not limited to, LACFCD's actions or activities in administering the grant funding and other LACFCD responsibilities set forth in Section (1)(1), but not including any acts or omissions of the LACFCD that involve the LACFCD's active negligence or willful misconduct. LPS liability arising from the active negligence or willful misconduct of LACFCD is excluded under this paragraph. This indemnity section shall remain in effect while the Grant Agreement, or any of its terms, is in effect and shall survive the termination, for any reason, of the Grant Agreement or this Agreement and shall remain in effect during the lifetime of the Project(s).
- (2) LACFCD shall indemnify, defend, and hold harmless LPS, its successors and assigns, officials, officers, employees, agents and those LPS agents serving as independent contractors in the role of LPS officials or officers from and against any

and all liability, including, but not limited to, defense costs, demands, claims, allegations of default or breach of the Grant Agreement or this Agreement, actions, fees, costs and expenses arising from or relating to: LACFCD's active negligence or willful misconduct in its performance of LACFCD's RESPONSIBILITIES under this Agreement. This indemnity section shall remain in effect while the Grant Agreement, or any of its terms, is in effect and shall survive the termination, for any reason, of the Grant Agreement or this Agreement.

- (3) If, for whatever reason, DWR fails to fund any of the grant commitment related to the Project (s), LPS shall hold LACFCD harmless for that failure to fund and shall not seek any funding from LACFCD other than funds actually provided by DWR to LACFCD and specifically identified for LPS's Project(s). If for whatever reason, DWR demands repayment of any part of the grant commitment related to the Project(s), LPS shall indemnify, defend, and hold LACFCD harmless for that repayment demand and shall not seek any funding from LACFCD in connection therewith.
- (4) LPS shall comply with the requirements set forth in CEQA and the CEQA Guidelines for its Project(s). LPS is ultimately and solely responsible for compliance with all applicable CEQA and NEPA requirements, including any mitigation measures required for the Project(s). LPS shall indemnify, defend, and hold harmless LACFCD, the County of Los Angeles, Special Districts for which the Board of Supervisors for County of Los Angeles and LACFCD acts as the governing body, elected and appointed officers, employees, and agents from and against any and all claims and/or actions related to the Project(s) that may be asserted by any third party or public agency alleging violations of CEQA or the CEQA Guidelines, NEPA and/or other Federal, State, and local environmental laws, rules, and regulations, guidelines, and requirements for the Project(s). This indemnity section shall remain in effect while the Grant Agreement, or any of its terms, is in effect and shall survive the termination, for any reason, of the Grant Agreement or this Agreement and shall remain in effect during the lifetime of the Project(s).

Section (5) CHILD SUPPORT LAWS

- (1) LACFCD's Policy on Child Support Laws

LPS acknowledges that LACFCD places a high priority on the enforcement of child support laws and the apprehension of child support evaders. LPS understands that it is LACFCD's policy to encourage all LACFCD contractors to voluntarily post LACFCD'S Los Angeles Most Wanted: Delinquent Parents List, in a prominent position at LPS's place of business.

- (2) Child Support Compliance Program

As required by LACFCD's Child Support Compliance Program (County Code

Chapter 2.200), LPS shall maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653) and California Unemployment Insurance Code Section 1088.5, and shall implement lawfully served Wage and Earnings Withholding Orders or District Attorney Notice of Wage Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure, Section 706.031 and Family Code, Section 5246(b).

(3) **Termination for Noncompliance with Child Support Requirements**

LPS shall maintain compliance with requirements of LACFCD's Child Support Compliance Program as certified in LPS's Child Support Compliance Program Certification and as set forth in this Agreement. Failure of LPS to maintain compliance with these requirements will constitute a default under this Agreement. Failure to cure such a default within ninety (90) days of notice by LACFCD shall be grounds upon which LACFCD may give notice of termination and terminate this Agreement.

Section (6) NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

- (1) LPS shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

Section (7) PROHIBITION AGAINST USE OF CHILD LABOR

LPS shall:

- (1) Not knowingly sell or supply to LACFCD any products, goods, supplies or other personal property manufactured in violation of child labor standards set by the International Labor Organization through its 1973 Convention Concerning Minimum Age for Employment; and,
- (2) Upon request by LACFCD, identify the country/countries of origin of any products, goods, supplies, or other personal property LPS supplies to LACFCD; and,
- (3) Upon request by LACFCD, provide to LACFCD the manufacturer's certification of compliance with all international child labor conventions.

Should LPS discover that any products, goods, supplies, or other personal property sold or supplied by LPS to LACFCD are produced in violation of any international child labor conventions, LPS shall immediately provide an alternative, compliant source of supply.

Failure by LPS to comply with provisions of this clause will be grounds for immediate suspension or termination of this Agreement.

Section (8) TERMINATION FOR IMPROPER CONSIDERATION

LACFCD may, by written notice to LPS, immediately terminate the right of LPS to proceed under this Agreement if it is found that consideration, in any form, was offered or given by LPS, either directly or through an intermediary, to any LACFCD officer, employee, or agent with the intent of securing this Agreement or securing favorable treatment with respect to the award, amendment, or extension of this Agreement or the making of any determinations with respect to LPS performance pursuant to this Agreement. In the event of such termination, LACFCD shall be entitled to pursue the same remedies against LPS as it could pursue in the event of default by LPS.

LPS shall immediately report any attempt by a LACFCD officer or employee to solicit such improper consideration. The report shall be made either to LACFCD manager charged with the supervision of the employee or to the Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.

Among other items, such improper consideration may take the form of cash, discounts, services, the provision of travel, entertainment, or tangible gifts.

Section (9) NOTIFICATION

- (1) Any notices, bills, invoices, or reports relating to this Agreement, and any request, demand, statement or other communication required or permitted hereunder shall be in writing and
 - (a) shall be delivered to the representatives of the Parties at the addresses set forth below, except that any Party may change the address for notices by giving the other Party at least ten (10) days written notice of the new address:

LACFCD:

Ms. Terri Grant, Principal Engineer
Watershed Management Division
Los Angeles County Flood Control District
County of Los Angeles Department of Public Works
900 South Fremont Avenue
Alhambra, CA 91803-1331

LPS:

Ramiro Adveda, Project Manager
City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301

- (b) or when LACFCD establishes a process to electronically upload some of the above stated information via the Web, the LPS shall submit the information accordingly as directed by LACFCD.

Section (10) MUTUAL COVENANTS

- (1) **Governing Law:** This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.
- (2) **Amendment:** No variation, modification, change, or amendment of this Agreement shall be binding upon any Party unless such variation, modification, change, or amendment is in writing and duly authorized and executed by both Parties. This Agreement shall not be amended or modified by oral agreements or understandings between the Parties or by any acts or conduct of the Parties. Notwithstanding the above, the Parties agree that any amendment to the Grant Agreement (including any amendment to LPS's grant amount and corresponding change to the dollar amount of LACFCD's 2.5 percent administrative fee) shall become part of this Agreement upon the provision of written notice to the LPS without the necessity of further written agreement between the Parties absent the immediate provision of written objection by LPS to LACFCD.
- (3) **Entire Agreement:** This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous agreements and understandings.
- (4) **No Third Party Beneficiary/Successors and Assigns:** This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. No other person shall have any right of action based upon any provisions of this Agreement.
- (5) **Waiver:** No waiver of any breach or default by any Party shall constitute a waiver of any other breach or default, nor shall any such waiver constitute a continuing waiver. Failure of any Party to enforce at any time or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.
- (6) **Covenant:** All provisions of this Agreement, whether covenants or conditions, on

the part of LPS shall be deemed to be both covenants and conditions.

- (7) **Assignment**: No Party shall assign this Agreement or any of such Party's interest, rights, or obligations, under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld except that any Party may assign the Agreement, or any part thereof, to any successor governmental agency performing the functions of the assigning Party as its successor.
- (8) **Manner of Execution**: The Agreement may be executed simultaneously in counterpart, each of which shall be deemed an original, but together, shall constitute but one and the same instrument.
- (9) **Relationship of Parties**: The Parties are, and at all times shall remain as to each other, wholly independent entities. No Party to this Agreement shall have the power to incur any debt, obligation, or liability on behalf of any other Party unless expressly provided to the contrary by this Agreement. No employee, agent, or officer of a Party shall be deemed for any purpose whatsoever to be an agent, employee, or officer of another Party.
- (10) **Successors**: This Agreement shall be binding upon and shall insure to the benefit of the respective successors, heirs and assigns of each Party.

Section (11) NEGATION OF PARTNERSHIP

Nothing in this Agreement shall be construed to render LACFCD in any way or for any purpose a partner, joint venturer, or associate in any relationship with LPS, nor shall this Agreement be construed to authorize either Party to act as agent for the other Party unless expressly provided in this Agreement.

Section (12) SAVINGS CLAUSE

If any provision or provisions of this Agreement shall be determined by any court to be invalid, illegal or unenforceable to any extent, the remainder of the Agreement shall continue in full force and effect and this Agreement shall be construed as if the invalid, illegal or unenforceable provision(s) had never been contained in this Agreement.

Section (13) AUTHORITY TO ENTER INTO AGREEMENT

Each of the persons signing below on behalf of a Party represents and warrants that he or she is authorized to sign this Agreement on behalf of such Party.

Section (14) LACFCD LOBBYISTS

Each LACFCD lobbyist, as defined in the Los Angeles County Code Section 2.160.010, retained by LPS shall be in full compliance with Chapter 2.160 of the Los Angeles County Code. LPS's signature on the Agreement is its certification that it is in full compliance with

Chapter 2.160. Failure on the part of any LACFCD lobbyist retained by LPS to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Agreement upon which LACFCD may immediately terminate or suspend this Agreement.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective officers, duly authorized by the LPS on _____, 2014, and by the LACFCD on _____, 2014.

LOS ANGELES COUNTY FLOOD
CONTROL DISTRICT

By _____
Chief Engineer

APPROVED AS TO FORM:

JOHN F. KRATTLI
County Counsel

By _____
Deputy

Local Project Sponsor:
CITY OF AGOURA HILLS

William D. Koehler,
Mayor

ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk

APPROVED AS TO FORM:

Candice K. Lee,
City Attorney

Attachment A

**STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES**

**GRANT AGREEMENT BETWEEN STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND**

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT

AGREEMENT NUMBER 4600010583

**PROPOSITION 84 ROUND 2 INTEGRATED REGIONAL WATER MANAGEMENT
(IRWM) IMPLEMENTATION GRANTS
CALIFORNIA PUBLIC RESOURCES CODE §75026 ET SEQ.**

PROJECT 10: UPPER MALIBU CREEK WATERSHED RESTORATION PROJECT

PROJECT SPONSOR: Agoura Hills

PROJECT DESCRIPTION:

The Project will remove concrete lining from Medea Creek to allow urban runoff to percolate and enhance filtration of pollutants and removal of metals. Native vegetation will be planted to help metabolize coliforms and nutrients, and reduce eutrophication. The Project will restore approximately 1.25 acres of new riparian habitat that will reconnect mammal migration corridors, remove fish migration barriers, establish trail connection and provide educational signage.

TASKS

CATEGORY A. Direct Project Administration

Task A.1 Project Administration

This task includes all administration activities associated with the Project including implementing the necessary contracts; preparing reports and plans; ensuring compliance with grant requirements; coordinating with the IRWM regional manager, LACFCD, and with the various stakeholders and agencies regarding operational and implementation issues; and consulting with Legal experts.

This task also includes adopting and enforcing a labor compliance program pursuant to California Labor Code Section 1771.3 and applicable laws. Compliance will be in place prior to award of construction contract.

Lastly, this task includes preparation of: progress reports and grant reimbursement requests (invoices); project monitoring plan, as outlined in Paragraph 21 of this agreement; and preparation of the final project report. All reports will meet generally accepted professional standards for technical reporting and the terms of this agreement outlined in Exhibit G.

Deliverables:

- Proof of compliance with the California Department of Industrial Relations requirements, available upon request.
- Progress Reports
- Invoices
- Project Monitoring Plan
- Draft and Final Project Report

CATEGORY B. Land Purchase / Easement

Land along Medea Creek is in the process of being quit claim deeded over to the City of Agoura Hills from LACFCD. Project staging areas are on land within the ownership of the City.

Deliverables:

- Copy of Quit Claim Deed

CATEGORY C. Planning / Design / Engineering / Environmental Documentation

Task C.1 Assessment and Evaluation

The following studies will be completed as part of the project's assessment and evaluation:

- Project Concept Report (feasibility study): Technical evaluations of site conditions, project goals and objectives, needs and constraints, and alternatives will be performed. This will include geotechnical and hydraulic modeling.
- Project Design Concept: Based on results of the Project Concept Report, the scope of the design will be outlined.

Deliverables:

- Project Concept Report
- Project Design Concept

Task C.2 Final Design

The following will be completed under Final Design:

- Develop and Release Request for Proposal (RFP) to design the project and complete Project plans and specifications.
- Complete preliminary design and release design to stakeholders for comment.
- Conduct stakeholder outreach through meetings with stakeholders to address their design review comments.
- Complete final design of plans, specifications, and cost estimate.

Deliverables:

- Bid Summary
- Summary of Stakeholder Comments
- Final Design Plans, Specifications and Cost Estimate

Task C.3 Environmental Documentation

This task includes the environmental planning efforts required to complete project development in the form of environmental processing and documentation.

The environmental process and documentation will consist of

1. Preparation of a CEQA Initial Study to identify and document potential project impacts.
2. Preparation of a Mitigated Negative Declaration
3. Public input through formalized process for publication, circulation, and adoption of CEQA determination.

Deliverables:

- CEQA Initial Study
- Mitigated Negative Declaration
- Notice of Determination

Task C.4 Permitting

Permitting for this project will require the involvement of State and federal agencies. The table identifies the permits and the permitting agencies.

| Permit | Agency |
|-----------------------------|---|
| Streambed Alteration Permit | Department of Fish and Wildlife |
| 401 Certification | LA Regional Water Quality Control Board |
| 404 Permit | United States Army Corps of Engineers |

Deliverables:

- Streambed Alteration Permit
- 401 Certification
- 404 Permit

CATEGORY D. Construction/Implementation

Task D.1 Construction Contracting

This task includes work involved with the bidding process: preparation of bid packages, advertisement for bids, pre-bid meeting with contractors, evaluation of received bids, approval and award of contract, and issuance of Notice to Proceed.

Deliverables:

- Bid Package
- Bid Summary
- Award of Contract
- Notice to Proceed

Task D.2 Construction

The work listed below will be completed to naturalize a 450 foot portion of a concrete channel and restore 1.25 acres of riparian habitat on Medea Creek.

Mobilization and Site Preparation

Mobilization and site preparation will include setting up equipment and materials on worksites.

Project Construction

Project construction will include:

- clearing, grubbing, channel demolition, and removal
- approximately 1,500 cubic yards of earthwork associated with side slopes, terraces, low-flow channel, rock groin, and willow trenches
- placement of approximately 1,100 tons of planted rock toe revetment, planted rock groin, planted rock weirs and pool
- willow trench staking
- installation of Rootwads
- installation of approximately 500 feet of Planted Coir Bio D Block
- hydroseeding
- placement of erosion control blankets on terrace and slopes
- irrigation of installed plants
- planting of native species
- construction of 4 foot high retaining walls
- construction of approximately 200 feet of concrete masonry floodwalls

Demobilization

Demobilization will include removal of all equipment and vehicles from work sites.

Deliverables:

- Photo Documentation of Construction

Task D.3 Construction Administration

Construction Oversight

This task includes the collection, review, and filing of all documentation; conducting construction meetings; review of contractor submittals, change orders, and construction invoices; and conducting construction inspection and monitoring by Certified Engineer.

As-Built Drawings

After completion of construction, design drawings will be modified to reflect construction conditions.

Deliverables:

- Construction Observation Reports
- Copy of Notice of Completion
- Engineer's Certification of Completion
- As-Built Drawings

Task D.4 Environmental Compliance and Mitigation

This task includes any required environmental mitigation measures identified in the CEQA documents.

Deliverables:

- Summary of Mitigation Measures Implemented