

BOARD MINUTES
BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA

SUPERVISORS STEVE BENNETT, LINDA PARKS,
KATHY I. LONG, PETER C. FOY AND JOHN ZARAGOZA
June 18, 2013 at 8:30 a.m.

CONSENT – PUBLIC WORKS AGENCY – Watershed Protection District – Approval of the Proposition 84 Integrated Regional Water Management Subgrant Agreement Between the County of Ventura and Ventura County Watershed Protection District, Providing Funding in the Amount of \$500,000 for the District's Phase 2 San Antonio Creek Spreading Grounds Rehabilitation Project; Watershed Protection District Zone 1, Supervisorial District No. 1.

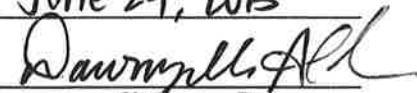
- (X) All board members are present.
- (X) Upon motion of Supervisor Long, seconded by Supervisor Parks, and duly carried, the Board hereby hears Consent Agenda Item 10 as a Regular Agenda Item.
- (X) Upon request of Supervisor Zaragoza, Consent Items 11 and 12 are heard as a Regular Agenda Item.
- (X) Upon request of Supervisor Parks, Consent Items 19 is heard as a Regular Agenda Item.
- (X) Upon motion of Supervisor Bennett, seconded by Supervisor Parks, and duly carried, the Board hereby approves the staff recommendations as stated in the respective Board letters for Consent Items 13-18, 20-26.

By: 
Dawnyelle Addison
Deputy Clerk of the Board

CLERK'S CERTIFICATE

I hereby certify that the annexed instrument
is a true and correct copy of the document
which is on file in this office.
MICHAEL POWERS, Clerk of the Board of Supervisors,
County of Ventura, State of California.

Dated: June 24, 2013

By: 
Deputy Clerk of the Board



**PROPOSITION 84
INTEGRATED REGIONAL WATER MANAGEMENT SUBGRANT
AGREEMENT**

Between the County of Ventura and the Ventura County Watershed Protection District

This Proposition 84 Integrated Regional Water Management Subgrant Agreement (“AGREEMENT” or “Memorandum of Understanding”) is made this 18th day of June, 2013, between the County of Ventura (hereinafter called “COUNTY”) and the Ventura County Watershed Protection District (hereinafter called “SUBGRANTEE”) (collectively “THE PARTIES”), regarding the approved grant funded project component known as Ventura County Watershed Protection District San Antonio Creek Spreading Grounds Rehabilitation Project Phase 2.

WHEREAS the Watersheds Coalition of Ventura County (“Watersheds Coalition”) has approved an Integrated Regional Water Management Plan (“IRWM Plan”) for Ventura County and submitted a grant application to the California State Department of Water Resources (“State”) for a Proposition 84 2011 IRWM Implementation Grant for 8 component water enhancement projects throughout Ventura County, as specified in the IRWM Plan, to be carried out by various public agencies in Ventura County with authority and responsibility for water facilities and programs;

WHEREAS, the State has approved the grant application of the County of Ventura, on behalf of the Watersheds Coalition of Ventura County, and requires that the grant agreement

be entered into with a single eligible grant recipient that is a member of the Watersheds Coalition;

WHEREAS, COUNTY is a member of the Watersheds Coalition, is an eligible grant recipient, and is willing to serve as the single grantee under the grant agreement with the State, to enter into subgrant agreements with project proponents for state-approved project components in the IRWM Plan and grant application and to act, with the assistance of a contractor, as the administrator of the grant;

WHEREAS, SUBGRANTEE has requested that COUNTY perform the function of grantee under the grant;

WHEREAS, SUBGRANTEE wishes to carry out the approved grant project component known as Ventura County Watershed Protection District San Antonio Creek Spreading Grounds Rehabilitation Project Phase 2 (“THE PROJECT COMPONENT”) and consents to implementing THE PROJECT COMPONENT through this AGREEMENT with COUNTY.

WHEREAS, SUBGRANTEE is willing to pay its share of COUNTY’s costs in administering the grant; and

WHEREAS, SUBGRANTEE is willing to meet all requirements under the grant agreement for THE PROJECT COMPONENT, including providing matching funds or in-kind match activities.

For valuable consideration, the receipt of which is hereby acknowledged, IT IS MUTUALLY AGREED BY THE PARTIES THAT:

1. COUNTY shall act as grantee under the Proposition 84 2011 Integrated

Regional Water Management Implementation Grant Program and shall, as an eligible grant recipient, enter into the grant agreement with the State to implement approved project components in the IRWM Plan for Ventura County and to administer grant requirements. COUNTY may contract with third parties for the administrative services called for in the grant agreement.

2. COUNTY shall reimburse grant funds to SUBGRANTEE for work on THE PROJECT COMPONENT for activities completed in accordance with the terms of the grant agreement, but only upon receipt of grant funds for that work from the State.

3. COUNTY shall timely submit to the State invoices, reports, and assurances received from SUBGRANTEE prepared to meet the accounting, reporting and other requirements in the grant agreement for THE PROJECT COMPONENT.

4. COUNTY shall maintain accounts for THE PROJECT COMPONENT in accordance with the grant agreement.

5. a) SUBGRANTEE shall carry out, build and/or perform and operate and maintain THE PROJECT COMPONENT in accordance with all requirements for THE PROJECT COMPONENT set forth in the grant agreement. Wherever the AGREEMENT refers to the grant agreement, it shall mean the grant agreement attached hereto as Exhibit 1 and any amendment or modification of Exhibit 1. SUBGRANTEE shall fulfill all assurances, declarations, representations and commitments made by SUBGRANTEE in support of SUBGRANTEE's request for grant funds. SUBGRANTEE shall meet all requirements and limitations of the grant agreement for THE PROJECT COMPONENT.

b) SUBGRANTEE shall immediately provide notice to COUNTY's

representative in the event SUBGRANTEE wishes to alter the schedule, materials, methods or deliverables related to THE PROJECT COMPONENT as set forth in the grant agreement. COUNTY shall timely forward SUBGRANTEE's request for alteration to the State for its consideration.

c) As COUNTY is acting as grantee under the grant agreement, SUBGRANTEE's questions and other communications related to the grant agreement or performance of work under the grant agreement shall be directed to the COUNTY's representatives for resolution with the State.

6. a) SUBGRANTEE shall pay or cause to be paid and provide all required grant matching funds or in-kind matching services for THE PROJECT COMPONENT and shall provide all necessary environmental review and obtain all required permits for THE PROJECT COMPONENT.

b) COUNTY and SUBGRANTEE agree that the initial budget for THE PROJECT COMPONENT is:

Proposition 84	Match	Total
\$500,000	\$460,000	\$960,000

This budget may be adjusted in accordance with the grant agreement.

7. To the extent permitted by law, SUBGRANTEE shall fully indemnify, defend, and hold the COUNTY, its officers, employees and agents, free and harmless from any and all claims, costs, damages, investigations, arbitrations, lawsuits, and expenses, including attorneys fees, judgments, awards or liabilities arising out of this AGREEMENT or SUBGRANTEE's work on THE PROJECT COMPONENT.

8. There shall be paid by SUBGRANTEE to COUNTY to fund COUNTY's

ongoing administrative services as grant administrator an amount not to exceed \$18,940. COUNTY may utilize these monies to engage a contractor to assist in the performance of administrative services. Payments shall be made in installments. The first year's payment shall be made within 60 days of entering into this AGREEMENT. Thereafter, SUBGRANTEE shall on or before June 1 of each fiscal year that it is carrying out THE PROJECT COMPONENT make payments to COUNTY as set forth in Exhibit 2 (attached hereto and incorporated herein by this reference) or on such other schedule acceptable to COUNTY to fund COUNTY's services for grant administration. SUBGRANTEE shall pay COUNTY additional amounts as billed by the COUNTY at applicable hourly rates for any additional costs of administrative services caused by delays of the SUBGRANTEE.

9. In accordance with the "GRANTEE'S RESPONSIBILITY" provision of the grant agreement between the State and COUNTY, THE PARTIES agree that SUBGRANTEE shall comply with all applicable laws, policies and regulations in carrying out this AGREEMENT or THE PROJECT COMPONENT.

10. COUNTY guarantees that all monies it receives for THE PROJECT COMPONENT from the State under the grant agreement shall solely and exclusively be used for the purposes set out in this AGREEMENT for THE PROJECT COMPONENT; provided, however, that COUNTY shall not be responsible for any money paid out as a result of fraud, forgery or misrepresentation.

11. COUNTY shall have no responsibility for maintenance of or insurance for THE PROJECT COMPONENT.

12. COUNTY is not acting as a surety. This AGREEMENT is not a performance,

payment, completion or labor and materials bond. COUNTY does not guarantee or warrant that construction of THE PROJECT COMPONENT will proceed, be completed, or that the grant funds for THE PROJECT COMPONENT will be sufficient to meet incurred expenses. COUNTY does not guarantee or warrant the plans and specifications for THE PROJECT COMPONENT. COUNTY does not guarantee or warrant any estimated construction costs or budgets set forth in either the grant application or grant agreement. COUNTY shall have no responsibility for any aspect of bidding and the selection of contractors and subcontractors to perform any aspect of the work of THE PROJECT COMPONENT under this AGREEMENT. Instead, COUNTY is only acting as a conduit: 1) for transfer of grant monies to SUBGRANTEE for THE PROJECT COMPONENT in furtherance of the grant agreement and 2) for the transmission of invoices, reports, financial information and state disclosure assurances and other information required by the grant agreement to be transmitted from the SUBGRANTEE to the State.

13. COUNTY does not guarantee or warrant that it will pay any invoice submitted by SUBGRANTEE until monies for approved invoices have actually been transmitted by the State to COUNTY. COUNTY assumes no liability to any entity, including but not limited to, SUBGRANTEE, and any contractors and subcontractors on THE PROJECT COMPONENT for any delays by the State in approval or transmittal of grant monies to COUNTY.

14. THE PARTIES agree that if SUBGRANTEE abandons carrying out THE PROJECT COMPONENT or fails to cure any breach of this AGREEMENT within 30 days of receipt of Notice of Breach from COUNTY, then COUNTY may, in its sole discretion, serve written notice to SUBGRANTEE that COUNTY intends to terminate this

AGREEMENT due to SUBGRANTEE's breach in 30 days and thereafter, if the breach is not timely and reasonably cured, terminate this AGREEMENT.

15. It is agreed by THE PARTIES that if any applicable federal or state budget act of the current year and/or any subsequent years does not appropriate sufficient funds for the grant, then this AGREEMENT shall be of no force and effect and shall terminate if the grant agreement is canceled by the State. In this event, except for those monies already received from State and approved for payment for work on THE PROJECT COMPONENT, COUNTY shall have no liability to transmit any monies for work on THE PROJECT COMPONENT to SUBGRANTEE. SUBGRANTEE agrees to indemnify and defend and hold COUNTY harmless from any claims asserted against COUNTY by any entity in the event that the applicable federal or state budget act does not appropriate sufficient funds for THE PROJECT COMPONENT.

16. COUNTY shall not be responsible for securing insurance protection against loss or damage to THE PROJECT COMPONENT and any pre-purchased materials from any source, including but not limited to the following: fire, earthquake, vandalism and theft. Neither is COUNTY liable for any loss or damage resulting from the failure to secure any such insurance. SUBGRANTEE shall provide all insurance required for THE PROJECT COMPONENT required by the grant agreement.

17. Upon completion of construction or performance of THE PROJECT COMPONENT or termination of this AGREEMENT, COUNTY shall: 1) disburse to SUBGRANTEE any remaining sums of money in the account approved by the State for payment to SUBGRANTEE, which have not already been disbursed by COUNTY to

SUBGRANTEE, and 2) distribute pro rata refunds to SUBGRANTEE of unexpended administrative cost contributions.

18. SUBGRANTEE shall proceed with all reasonable diligence in: (i) the commencement and completion of THE PROJECT COMPONENT; (ii) submission of written reports, financial information, insurance, bonds, and assurances required by the grant agreement for THE PROJECT COMPONENT; and (iii) submittal of requests for payment fully compliant with the grant agreement, and accompanied by written verification under penalty of perjury that the request for payment is truthful and accurate and the described costs have all been incurred solely for THE PROJECT COMPONENT.

19. COUNTY shall not be obligated to recognize any assignment of this AGREEMENT by SUBGRANTEE to any third party, except as agreed to in writing by both COUNTY and SUBGRANTEE.

20. Should any provision of this AGREEMENT be found invalid, such invalidity shall not, in any way, affect the remaining provisions of this AGREEMENT.

21. This AGREEMENT is only for the benefit of THE PARTIES and not for the benefit of any third party, other than the State.

22. The signature of the Director of the Ventura County Watershed Protection District or his designee on the requests for payment to COUNTY submitted by SUBGRANTEE shall conclusively and finally establish the right of COUNTY to draw checks as so requested, subject to COUNTY's performance of its responsibilities as grantee pursuant to the grant agreement, and subject to the State's transmittal of grant monies to COUNTY for THE PROJECT COMPONENT. Changes to

authorized signatures shall be accomplished by written notice from SUBGRANTEE to COUNTY.

23. Nothing in this AGREEMENT shall create any contractual relationship between any contractor or subcontractor of SUBGRANTEE and COUNTY. SUBGRANTEE agrees to be fully responsible to COUNTY for the acts and omissions of its contractors and subcontractors and persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by SUBGRANTEE. SUBGRANTEE's obligation to pay its contractors and subcontractors is independent of the obligation of the State to transmit monies to COUNTY, and COUNTY's obligation to transmit monies to SUBGRANTEE. As a result, COUNTY shall have no obligations to pay monies to any contractor or subcontractor of SUBGRANTEE.

24. SUBGRANTEE agrees that, at SUBGRANTEE's sole expense, SUBGRANTEE shall ensure that the COUNTY, including its boards, all special districts governed by the Board of Supervisors, agencies, departments, officers, consultants, employees, agents and volunteers, shall be named as additional insured, and insured in the same amount as SUBGRANTEE, on all insurance policies which SUBGRANTEE is required to obtain pursuant to the grant agreement. SUBGRANTEE agrees to provide COUNTY with written documentation that it has been so named as an additional insured on all insurance policies which SUBGRANTEE is required to obtain pursuant to the grant agreement.

25. The term of this AGREEMENT shall be the same as, and coincide with, the term of the grant agreement.

26. This AGREEMENT shall terminate upon the earlier of: (i) June 30, 2016; (ii)

completion of all obligations under the AGREEMENT; or (iii) termination of the AGREEMENT by COUNTY due to breach as set forth in Paragraph 14.

27. For three years after completion of THE PROJECT COMPONENT or as otherwise required by the grant agreement, COUNTY and SUBGRANTEE shall retain a copy of records of: (i) deposits into, and disbursements from, accounts for THE PROJECT COMPONENT; and (ii) requests for payment from SUBGRANTEE. Upon prior written request, COUNTY and SUBGRANTEE shall provide reasonable access to inspect such records during normal business hours.

28. Each of THE PARTIES represents and warrants that each person signing this AGREEMENT on behalf of any of THE PARTIES, has legal authority to sign this AGREEMENT, and bind that party.

29. Notice pursuant to this AGREEMENT shall be sent by United States mail and by facsimile transmission to the following representatives for THE PARTIES:

SUBGRANTEE:

Ventura County Watershed Protection District
County of Ventura
800 So. Victoria Avenue
Ventura, CA 93009

COUNTY:

County of Ventura
800 South Victoria Avenue
Ventura, CA 93009-1940
ATTN: Sue Hughes

THE PARTIES may change representatives upon written notice to the other party.

30. This AGREEMENT is entered into, and shall be construed and interpreted in

accordance with the laws of the State of California.

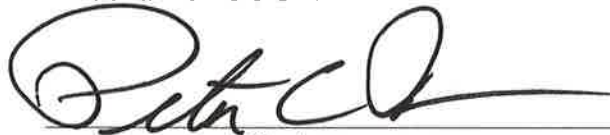
31. This AGREEMENT has been negotiated between THE PARTIES and shall not be construed against any party as the drafting party.

32. This AGREEMENT will be considered binding and effective when it has been fully executed by THE PARTIES. This AGREEMENT may be executed in counterpart originals, with all counterparts taken as a whole constituting the complete AGREEMENT.

Wherefore, having read the foregoing and having understood and agreed to the terms of this AGREEMENT, THE PARTIES voluntarily affix their signatures below.



Michael Powers, County Executive Officer
on behalf of COUNTY



Peter C. Foy, Chair Board of
Ventura County Watershed Protection District
on behalf of the SUBGRANTEE

Executed on the day and year aforesaid.



