

FUNDING AGREEMENT
RE: PAJARO RIVER BENCH EXCAVATION PHASE II PROJECT

THIS AGREEMENT (hereinafter referred to as "Funding Agreement") is made this _____ day of April 2013, by and between the Monterey County Water Resources Agency, a political subdivision of the State of California, hereinafter referred to as "Agency", and the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "County";

WITNESSETH:

WHEREAS, consistent with the general purpose of the Agency, it desires to continue work on a two-phase project, entitled the Pajaro River Bench Excavation Project, partnering with Santa Cruz Flood Control District Zone 7 (hereinafter referred to as "District") to excavate and remove 298,000 cubic yards of material from eleven locations along 7.5 miles of the levee benches between Highway 1 and Murphy Road Crossing, in excavation sites spanning 39.1 acres within Santa Cruz and Monterey Counties; and,

WHEREAS, District and Agency intend to enter into an agreement regarding cost sharing (hereinafter "Agreement re: Phase II") for the second phase of the Project (hereinafter "Phase II Project"); and,

WHEREAS, the Phase I Project was completed in 2012, consisting of excavation of approximately 145,000 cubic yards of excess sediment from select locations in both Monterey and Santa Cruz Counties (Sites 1R through 4R) along the upper terrace benches inside the Pajaro River levees in order to improve the flood carrying capacity of the levee system, at an estimated cost of \$2.11 million; and,

WHEREAS, the District and Agency jointly shared in a Proposition 50 Grant award on January 16, 2008 for an amount of \$6.2 million, \$1.6 million of which has been utilized for preliminary studies; and, \$2.11 million was utilized for Phase I construction leaving a remaining balance of \$2.49 million; and,

WHEREAS, the District has been notified of a Proposition 84 Grant award in the amount of \$2.95 million, which grant has not yet been fully executed; and,

WHEREAS, the District and Agency now desire to accomplish Phase II of the Project, consisting of excavation of approximately 153,000 cubic yards of excess sediment from select locations (Sites 5R through 8R) along the upper terrace benches inside the Pajaro River levees in order to improve the flood carrying capacity of the levee system at an estimated cost of \$4.4 million, initially caused to be funded equally by the District and Agency; and,

WHEREAS, the District and Agency intend to utilize a maximum of the \$2.49 million remaining award to the Parties pursuant to Proposition 50 grant award and approximately \$2.00 million from the Proposition 84 grant award to fund 100% of the construction cost of Phase II Project; and,

WHEREAS, upon receipt of each portion of Proposition 50 and Proposition 84 Grant funds, the District will pay to the Agency 50% of the amounts received; and,

WHEREAS, the County benefits from the Phase II Project through the flood control protection provided its residents living adjacent to the Pajaro River; and,

WHEREAS, the Agency has requested the County to assist with cash flow issues related to timing of the 100% reimbursement;

NOW THEREFORE, for and in consideration of the foregoing, the Parties hereby agree as follows (all as further illustrated on Exhibit "A" attached hereto and made a part hereof):

1. No funds will be allocated by the County of Monterey for the purposes of this Agreement until on or after July 1, 2013, and when funding for the Pajaro Bench Excavation Project Phase II is included in the County Budget for fiscal year 2013-2014.
2. The Agency will review and approve invoices for work on the Phase II Project and present such invoices to the County.
3. Within fifteen (15) business days of presentation of an approved invoice, County will directly pay Santa Cruz Flood Control District Zone 7 the approved invoice amount. The total amount to be so paid by County to the District shall not exceed \$2.2 million.
4. Within five (5) business days of receipt from the District of any Proposition 50 and Proposition 84 Grant funds, or any other funds obtained for the benefit for or use on the Phase II Project, the Agency shall remit to County the amount of such funds received up to the amount paid by the County. If the total of such funds received by the Agency are insufficient to repay the County for all funds paid by County pursuant to this Agreement, the Agency will remit to the County from all other available sources sufficient funds to ensure all monies paid by the County are reimbursed in full. The County shall be fully reimbursed for any funds paid pursuant to this Agreement, as soon as possible, but in no event later than June 30, 2014.
5. This Agreement will not become effective unless and until the Agreement re: Phase II between the Agency and the District is fully executed.

IN WITNESS WHEREOF, the Monterey County Water Resources Agency and County Monterey execute this Agreement as follows:

COUNTY OF MONTEREY

By _____

Its County Administrative Officer

MONTEREY COUNTY WATER RESOURCES AGENCY

By _____

Its General Manager

Approved as to form:

COUNTY OF MONTEREY

Leslie J. Girard, Chief Assistant County Counsel

MONTEREY COUNTY WATER RESOURCES AGENCY

Patrick McGreal, Deputy County Counsel