

**ADVANCE/REFUND AGREEMENT**  
**RE: PAJARO RIVER BENCH EXCAVATION PROJECT PHASE I**

**THIS ADVANCE/REFUND AGREEMENT** (hereinafter "Agreement") is made this \_\_\_\_\_ day of June, 2012, by and between the Monterey County Water Resources Agency, (hereinafter "Agency") and the County of Monterey (hereinafter "County") (collectively, the "Parties").

**WITNESSETH:**

**WHEREAS**, consistent with the general purpose of the Agency, it desires to undertake a two-phase project, entitled the Pajaro River Bench Excavation Project (hereinafter "Project"), partnering with Santa Cruz Flood Control District (hereinafter "District") to excavate and remove 336,000 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 "Phase 1 Cost Sharing Agreement") for the first phase of the Project (hereinafter "Phase I Project"); and

**WHEREAS**, the Phase I Project is scheduled to be completed in 2012 and consists 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 \$3.1 million; and

**WHEREAS**, District and Agency were jointly awarded a Proposition 50 Grant on January 16, 2008 for an amount of \$6.0 million for the Project, \$1.4 million of which has been utilized by District for preliminary planning studies; and

**WHEREAS**, the District and Agency intend to utilize a portion of the remaining \$4.6 million awarded to the under the Proposition 50 Grant to fund 100% of the cost of the Phase I Project; and

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

**WHEREAS**, the County benefits from the Phase 1 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 by advancing funds as set forth herein;

**NOW THEREFORE**, for and in consideration of the foregoing, the Parties hereby agree as follows:

1. The Agency will review and approve invoices for work on the Phase 1 Project and present such invoices to the County.
2. Within fifteen (15) business days of presentation of an approved invoice, County will advance to the Agency the approved amount. The total amount advanced by County to the Agency shall not exceed \$1.55 million.
3. Within five (5) business days of receipt from the District of any Proposition 50 Grant funds, or any other funds obtained for the benefit for or use on the Phase 1 Project, the Agency shall remit to County the amount of such funds received up to the amount advanced to the Agency by the County. If the total of such funds received by the Agency are insufficient to repay the County for all funds advanced pursuant to this Agreement, the Agency will remit to the County from all other available sources sufficient funds to ensure all monies advanced by the County are repaid in full. The County shall be fully reimbursed for all advances, as soon as possible, but in no event later than June 30, 2013.
4. This Agreement will not become effective unless and until the Phase 1 Cost Sharing Agreement between the Agency and the District is fully executed.

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

**COUNTY OF MONTEREY**

By: \_\_\_\_\_  
Lew C. Bauman, CAO

**MONTEREY COUNTY WATER RESOURCES AGENCY**

By: \_\_\_\_\_  
David E. Chardavoine, Interim General Manager

**APPROVED AS TO FORM:**

CHARLES J. MCKEE, County Counsel

By *Ray Beeman for*  
Leslie J. Girard  
Chief Assistant County Counsel  
(for County)

By *McGreal*  
Patrick McGreal  
Deputy County Counsel  
(for Agency)