

**SUBMITTAL TO THE FLOOD CONTROL AND
WATER CONSERVATION DISTRICT BOARD
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

503B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
October 25, 2011

SUBJECT: Upper Santa Margarita Watershed
Region Integrated Regional Water Management Plan
Proposition 84 Planning Grant Application
Cooperative Agreement

RECOMMENDED MOTION:

1. Approve the Cooperative Agreement between the District and Rancho California Water District; and
2. Authorize the Chairman to execute the Agreement documents on behalf of the District.

BACKGROUND:

Continued on page 2

WARREN D. WILLIAMS
General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. District Cost:	\$17,500	In Current Year Budget:	Yes
	Current F.Y. County Cost:	N/A	Budget Adjustment:	No
	Annual Net District Cost:	N/A	For Fiscal Year:	2011-12
SOURCE OF FUNDS: 25200 947580 527240 – NPDES Contributions				Positions To Be Deleted Per A-30 <input type="checkbox"/>
				Requires 4/5 Vote <input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY:
Michael R. Shetler

County Executive Office Signature

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

On motion of Supervisor Buster, seconded by Supervisor Stone and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Stone, Benoit and Ashley
Nays: None
Absent: Tavaglione
Date: October 25, 2011
xc: Flood: \$0

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

Prev. Agn. Ref.: 8/31/2010, Item 11.3 District: 1st & 3rd Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

11.3

FISCAL PROC...
 IAN M. CHANG, FISCAL...
 BY:
 IVAN M. CHANG
 10/13/11

FORM APPROVED COUNTY COUNSEL
 BY:
 NEAL R. KIPNIS
 DATE:

Dep't Recomm.: Consent Policy
 Per Exec. Ofc.: Consent Policy

Departmental Concurrence

**FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD SUBMITTAL
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

SUBJECT: Upper Santa Margarita Watershed Region Integrated Regional Water Management Plan
Proposition 84 Planning Grant Application
Cooperative Agreement

SUBMITTAL DATE: October 25, 2011

Page 2

BACKGROUND:

The District, County of Riverside and Rancho California Water District are signatories to a Memorandum of Understanding to Conduct Integrated Regional Water Management Planning for the Upper Santa Margarita Watershed (MOU) originally executed on June 26, 2007 and subsequently renewed on August 31, 2010. The purpose of the MOU is to facilitate the implementation of the Integrated Regional Water Management Plan for the Upper Santa Margarita Watershed Planning Region (Plan). The Plan was approved by the Department of Water Resources in September 2009. The MOU authorizes, among other things, the establishment of a Stakeholder Advisory Committee and grant applications to pursue funding for integrated projects that may qualify under specific chapters of Propositions 50 and 84.

This Cooperative Agreement sets forth the terms and conditions by which the District will participate in the preparation and submittal of a joint grant application for the Proposition 84 Integrated Regional Water Management Plan Round 2 Planning Grant to update the IRWM Plan. The update of the Plan is a pre-requisite to qualifying for up to \$8.3 million in Proposition 84 IRWM Plan Implementation Grant funds expected to be dedicated by the Department of Water Resources to the Upper Santa Margarita Region of Riverside County in 2012. If successfully awarded funds from the Planning Grant, the funds will be used to update the Upper Santa Margarita Watershed Region IRWM Plan on behalf of the stakeholders in the Upper Santa Margarita Watershed Region of Riverside County.

County Counsel has approved the Agreement as to legal form, and RCWD has executed the Agreement.

FINANCIAL:

Sufficient funds are available in the District's NPDES Santa Margarita Assessment budget for FY 2011-12.

CLC:bjj
P8/140925

COOPERATIVE AGREEMENT
Upper Santa Margarita Watershed Region
Integrated Regional Water Management Plan
Proposition 84 Planning Grant Application

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This Cooperative Agreement is made by and between The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", and RANCHO CALIFORNIA WATER DISTRICT, a public agency, hereinafter called "RCWD". RCWD and DISTRICT are hereinafter sometimes collectively referred to as the "PARTIES" or individually as a "PARTY".

RECITALS

A. The Department of Water Resources, hereinafter called "DWR", and the State Water Resources Control Board are administering a grant program for Integrated Regional Water Management, hereinafter called "IRWM"; and

B. PARTIES are signatories to the Memorandum of Understanding to Conduct Integrated Regional Water Management Planning for the Upper Santa Margarita Watershed, originally executed on June 26, 2007 and subsequently renewed on August 31, 2010, hereinafter collectively called "MOU"; and

C. PARTIES are working collaboratively with the Stakeholder Advisory Committee of the Upper Santa Margarita Watershed in Riverside County to complete preparation of an update to the Upper Santa Margarita Watershed Planning Region IRWM Plan; and

D. The Upper Santa Margarita Watershed Planning Region IRWM Plan, hereinafter called "PLAN", reflects an effort to pursue an integrated watershed approach to water resources planning. PARTIES, through the MOU, can utilize the PLAN to pursue grant

1 funding from the State of California to plan, design and implement integrated water resource
2 management projects; and

3 E. The proposed DWR IRWM Proposition 84 Planning Grant Round 2 will
4 provide an opportunity to receive state funding under California Public Resources Code Section
5 75026 and California Water Code Section 83002(b)(3)(A)(ii) to offset the PLAN update costs;
6 and

7 F. DWR has indicated that the IRWM Proposition 84 Planning Grant Round 2
8 Proposal Solicitation Package will be released by late-September or early-October 2011; and

9 G. RCWD, on behalf of the Stakeholder Advisory Committee, is willing to
10 take the lead role contracting with RMC Water and Environment, an environmental engineering
11 company, for the preparation and submittal of a grant application to DWR for IRWM
12 Proposition 84 Planning Grant Round 2 funding to update the PLAN, hereinafter called
13 "GRANT APPLICATION"; and

14 H. DISTRICT is willing to contribute fifty percent (50%), up to a total
15 maximum contribution of seventeen thousand five hundred dollars (\$17,500), toward RCWD's
16 costs for the preparation and submittal of the joint GRANT APPLICATION; and

17 I. DISTRICT has included the sum of seventeen thousand five hundred
18 dollars (\$17,500) in its Fiscal Year 2011-2012 budget, hereinafter called "DISTRICT
19 CONTRIBUTION"; and

20 J. The purpose of this Agreement is to memorialize the mutual
21 understandings by and between RCWD and DISTRICT with respect to the preparation and
22 submittal of the GRANT APPLICATION and the payment of DISTRICT CONTRIBUTION;
23 and
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1 K. It is in the best interest of the public to proceed with the GRANT
2 APPLICATION at the earliest possible date.

3 NOW, THEREFORE, in consideration of the preceding recitals and the mutual
4 covenants hereinafter contained, the PARTIES hereto mutually agree as follows:

5 SECTION I

6 RCWD shall:

7 1. Prepare and submit, or cause to be prepared and submitted, the GRANT
8 APPLICATION on behalf of the Stakeholder Advisory Committee.

9 2. Submit to DISTRICT the GRANT APPLICATION, for review and
10 approval, prior to submittal to DWR.

11 3. Submit appropriate invoice(s) to DISTRICT (Attention: Chief of Watershed
12 Protection Division) for the payment of DISTRICT CONTRIBUTION. RCWD shall determine
13 at its discretion whether to submit periodic or a one-time final invoice(s) to DISTRICT for
14 services satisfactorily performed under the contractual arrangement between RCWD and RMC
15 Water and Environment, hereinafter called "CONSULTANT AGREEMENT". The invoice(s)
16 shall include a detailed accounting of all costs associated with the preparation and submittal of
17 the GRANT APPLICATION including the CONSULTANT AGREEMENT and any associated
18 contract documents, statements or payment vouchers, as may be necessary, to establish the
19 DISTRICT'S fifty percent (50%) share. The DISTRICT CONTRIBUTION shall not exceed
20 seventeen thousand five hundred dollars (\$17,500).
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23 SECTION II

24 DISTRICT shall:

25 1. Authorize RCWD to prepare and submit, or cause to be prepared and
26 submitted, the GRANT APPLICATION on behalf of the DISTRICT.
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1 2. Review and approve GRANT APPLICATION prior to RCWD submitting
2 GRANT APPLICATION to DWR.

3 3. Pay RCWD within thirty (30) days after receipt of appropriate invoice(s) as
4 set forth in Section I.3, not to exceed seventeen thousand five hundred dollars (\$17,500) toward
5 RCWD'S cost for the preparation and submittal of GRANT APPLICATION.

6 SECTION III

7 It is further mutually agreed:

8 1. Only RCWD will have a contractual arrangement with RMC Water and
9 Environment, hereinafter called "RMC", and RCWD shall be solely responsible for i) payment
10 of any compensation due to RMC and ii) managing RMC'S performance pursuant to the
11 CONSULTANT AGREEMENT.
12

13 2. DISTRICT CONTRIBUTION to the GRANT APPLICATION is not
14 contingent upon the successful application that results in funding to update the PLAN and that
15 DISTRICT is not entitled to a refund of DISTRICT CONTRIBUTION if RCWD is not
16 successful in obtaining funding from DWR pursuant to this Agreement.
17

18 3. The term of this Agreement shall be from the date the Agreement is
19 executed by DISTRICT'S Board of Supervisors to the date of completion of performance of the
20 services under the CONSULTANT AGREEMENT, or the date of payment in full by
21 DISTRICT under this Agreement, whichever is later. This Agreement shall remain in effect
22 during the term unless earlier terminated under the following procedures:

23 A. At any time during the term of this Agreement, any PARTY may
24 terminate this Agreement without cause upon providing the other
25 PARTY thirty (30) days written notice stating the extent and
26 effective date of termination; or
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B. If a PARTY to this Agreement believes that the other PARTY has failed to perform any obligation of that PARTY in accordance with the terms of this Agreement, hereinafter called "DEFAULT", the PARTY alleging the DEFAULT shall provide written notice, hereinafter called "DEFAULT NOTICE", to the other PARTY, setting forth the nature of the alleged DEFAULT. Unless otherwise provided by a specific term of this Agreement, the PARTY claimed to be in DEFAULT shall have: (i) with respect to a DEFAULT involving the payment of money, ten (10) days after its receipt of the DEFAULT NOTICE to completely cure such DEFAULT, and (ii) with respect to any other type of DEFAULT, thirty (30) days from the receipt of the DEFAULT NOTICE to completely cure such DEFAULT or, if such DEFAULT cannot reasonably be cured within such thirty (30) day period, to commence the cure of such DEFAULT within the thirty (30) day period and diligently prosecute the cure to completion thereafter. If the PARTY claimed to be in DEFAULT does not cure such DEFAULT within the time periods and procedures as set forth herein, the PARTY alleging DEFAULT may then pursue the applicable legal and equitable remedies, including termination of this Agreement.

4. RCWD shall indemnify, defend, save and hold harmless DISTRICT and County of Riverside (including their respective officers, districts, special districts and departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors, and subcontractors) from

1 any liabilities, claim, damage, proceeding or action, present or future, based upon, arising out of
2 or in any way relating to RCWD (including its officers, employees, agents, representatives,
3 independent contractors, and subcontractors) actual or alleged acts or omissions related to this
4 Agreement, performance under this Agreement, or failure to comply with the requirements of
5 this Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c)
6 payment of attorney's fees or (d) any other element of any kind or nature whatsoever.

7 5. DISTRICT shall indemnify, defend, save and hold harmless RCWD
8 (including its officers, employees, agents, representatives, independent contractors, and
9 subcontractors) from any liabilities, claim, damage, proceeding or action, present or future,
10 based upon, arising out of or in any way relating to DISTRICT (including its officers, Board of
11 Supervisors, elected and appointed officials, employees, agents, representatives, independent
12 contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement,
13 performance under this Agreement, or failure to comply with the requirements of this
14 Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c)
15 payment of attorney's fees or (d) any other element of any kind or nature whatsoever.
16

17 6. This Agreement is to be construed in accordance with the laws of the State
18 of California. If any provision of this Agreement is held by a court of competent jurisdiction to
19 be invalid, void or unenforceable, the remaining provisions shall be declared severable and shall
20 be given full force and effect to the extent possible.
21

22 7. Neither this Agreement nor any part thereof shall be assigned by the
23 RCWD or DISTRICT without the prior written consent of the other PARTY.
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25 8. DEFAULT NOTICE to be given to either PARTY, as required under this
26 Agreement, must be given by personal delivery or by registered or certified mail addressed and
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delivered as set forth below. Other correspondence and invoices may be mailed by first class mail, postage prepaid, to the following addresses:

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
1995 Market Street
Riverside, CA 92501
Attn: Jason Uhley
Chief of Watershed Protection Division

RANCHO CALIFORNIA WATER
DISTRICT
42135 Winchester Road
Temecula, CA 92590
Attn: Perry Louck
Director of Planning
Mail to: P.O. Box 9017
Temecula, CA 92589-9017

9. This Agreement is the result of negotiations between the PARTIES hereto, and the advice and assistance of their respective counsel. The fact that this Agreement was prepared as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT prepared this Agreement in its final form.

10. Any waiver by DISTRICT or RCWD of any breach by any other PARTY of any provision of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or any other provision hereof. Failure on the part of DISTRICT or RCWD to require from any other PARTY exact, full and complete compliance with any of the provisions of this Agreement shall not be construed as in any manner changing the terms hereof, or estopping DISTRICT or RCWD from enforcing this Agreement.

11. This Agreement is intended by the PARTIES hereto as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous agreements and understandings, oral or written, in connection therewith. This Agreement may be changed or modified only upon the written consent of the PARTIES hereto.

1 12. The obligations of DISTRICT are limited by and contingent upon the
2 availability of DISTRICT funds for the DISTRICT CONTRIBUTION. In the event that such
3 funds are not forthcoming for any reason, DISTRICT shall immediately notify RCWD in
4 writing. This Agreement shall be deemed terminated and have no further force and effect
5 immediately on receipt of DISTRICT'S notification by RCWD. In the event of such
6 termination, DISTRICT shall make payment for services satisfactorily performed in accordance
7 with Section I.3.

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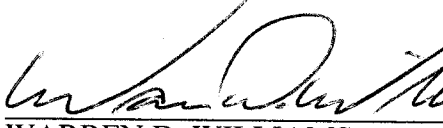
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

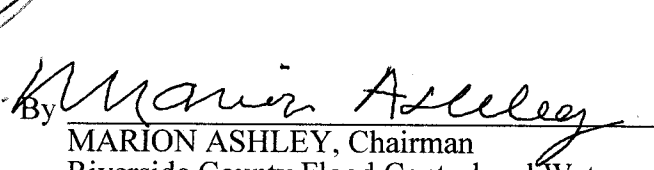
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OCT 25 2011

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL: **RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT**

By 
WARREN D. WILLIAMS
General Manager-Chief Engineer

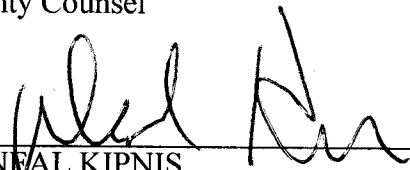
By 
MARION ASHLEY, Chairman
Riverside County Flood Control and Water Conservation District Board of Supervisors

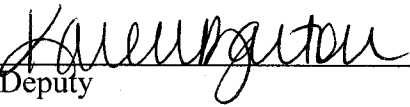
APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By 
NEAL KIPNIS
Deputy County Counsel

By 
Deputy

(SEAL)

Cooperative Agreement: Rancho California Water District
Upper Santa Margarita Region Integrated Regional Water Management Plan
Proposition 84 Planning Grant Application
CLC:blj

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RANCHO CALIFORNIA WATER DISTRICT

By Matthew G. Stone
MATTHEW G. STONE
General Manager

Cooperative Agreement: Rancho California Water District
Upper Santa Margarita Region Integrated Regional Water Management Plan
Proposition 84 Planning Grant Application
CLC:blj