

**SUBMITTAL TO THE BOARD OF DIRECTORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

306



FROM: Regional Park & Open-Space District

SUBMITTAL DATE:
12/1/11

SUBJECT: Approval of Grant Agreement with the California Department of Parks and Recreation Off-Highway Motor Vehicle Recreation Division Grants and Cooperative Agreements Program

RECOMMENDED MOTION: That the Board approves and:

1. Authorizes the grant agreement between the Regional Park and Open-Space District (District) and the California Department of Parks and Recreation Off-Highway Motor Vehicle Recreation Division under the Grants and Cooperative Agreements Program; and
2. Authorizes the Chairperson to execute five (5) copies of the Agreement; and
3. Authorizes the General Manager, or designee, to execute future ministerial amendments to this Agreement; and
4. Directs the Clerk of the Board to return five (5) copies of the Agreement to the District for transmittal and approval from the California Department of Parks and Recreation Off-Highway Motor Vehicle Recreation Division.

BACKGROUND: On April 26, 2011, minute order 13.3, your honorable Board authorized the District to apply for funds through the California Department of Parks and Recreation Off-Highway Motor Vehicle Recreation Division competitive program in which grant funds were available for land restoration.
(continued on page 2)

APPROVED BY: Scott Bangle, General Manager

FINANCIAL DATA N/A	Current F.Y. Total Cost:	\$	In Current Year Budget:
	Current F.Y. Net County Cost:	\$	Budget Adjustment:
	Annual Net County Cost:	\$	For Fiscal Year:

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: Alex Gann
Alex Gann

County Executive Office Signature

- Policy
- Consent
- Policy
- Consent

MINUTES OF THE REGIONAL PARK AND OPEN SPACE DISTRICT

On motion of Commissioner Tavaglione, seconded by Commissioner Benoit and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione and Benoit
Nays: None
Absent: Stone and Ashley
Date: December 20, 2011
xc: Parks

Kecia Harper-Ihem
Clerk of the Board
By: Kecia Harper-Ihem
Deputy

13.1

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD
 FORM APPROVED COUNTY COUNSEL BY: NEAL R. KIPNIS DATE: 12/1/11
 Departmental Concurrence
 Dep't Recomm.:
 Per Exec. Ofc.:

SUBJECT: Approval of Grant Agreement with the California Department of Parks and Recreation Off-Highway Motor Vehicle Recreation Division Grants and Cooperative Agreements Program

BACKGROUND:

The application for funds successfully received an award for \$439,438 to restore a section of land acquired by the Riverside Conservation Agency known as the "CalMat" site. The site is located in the Badlands roughly eleven miles north/northwest of the city of San Jacinto. The site was selected due to the damage it has incurred over past years due to unregulated off-highway vehicle usage. The District will use the grant funds to rectify this damage by restoring native vegetation through active and passive rehabilitation methods.

District staff, in conjunction with other agencies, will prepare a biological assessment of the property to determine invasive vegetation for removal and native vegetation for restoration before moving on to physical restoration of the site.

The total estimated project expense is \$593,840 with the District providing \$154,402 of the total cost.

PROJECT AGREEMENT

PROJECT AGREEMENT NUMBER: G10-03-60-R02 PROJECT TYPE: Restoration

GRANTEE: Riverside County Regional Park and Open-Space District

WHEN DOCUMENT IS FULLY EXECUTED RETURN
CLERK'S COPY
to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

PROJECT TITLE: Restoration: CalMat Site

PROJECT PERFORMANCE PERIOD: FROM 09/06/2011 THROUGH 09/05/2014

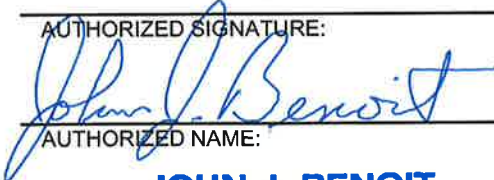

MAXIMUM AMOUNT PAYABLE SHALL NOT EXCEED **\$439,438.00** (Four Hundred Thirty Nine Thousand Four Hundred Thirty Eight and 00/100)

THIS PROJECT AGREEMENT is made and entered into, by and between the State of California, acting by and through the Department of Parks and Recreation, Off-Highway Motor Vehicle Recreation Division and Grantee.

The Grantee agrees to complete the project as described in the Project Description. The Grantee's Application, the Off-Highway Motor Vehicle Act of 2003 and the California Code of Regulations, Division 3, Chapter 15, Sections 4970-4970.26 are hereby incorporated into this agreement by reference.

The parties hereto agree to comply with the terms and conditions of the following attachments which by reference are made a part of the Project Agreement.

- ATTACHMENT 1 - PROJECT COST ESTIMATE
- ATTACHMENT 2 - GENERAL PROVISIONS

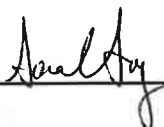
GRANTEE	STATE OF CALIFORNIA
AUTHORIZED SIGNATURE: 	AUTHORIZED SIGNATURE: 
AUTHORIZED NAME: JOHN J. BENOIT	AUTHORIZED NAME: Sixto J. Fernandez
TITLE: <u>Chairman</u>	TITLE: Grants Manager
DATE: <u>DEC 20 2011</u>	DATE: <u>2-24-12</u>

CERTIFICATION OF FUNDING (FOR STATE USE ONLY)				
CONTRACT NUMBER: C32-14-146		VENDOR NUMBER: 4000000001-04		FUND: Off-Highway Vehicle Trust Fund
INDEX: 1550	OBJECT CODE: 702	PCA: 62666	CONTRACT AMOUNT: 439,438.00	APPROPRIATION: Local Assistance
ITEM: 3790-101-0263	CHAPTER: 712/10	STATUTE: 2010	FISCAL YEAR: 2011/2012	

I hereby certify upon my own personal knowledge that budgeted funds are available for this encumbrance.

SIGNATURE OF DPR ACCOUNTING OFFICER:

DATE:

 4/24/12

FORM APPROVED COUNTY COUNSEL
 BY:  DATE:

ATTEST:
 KEVIN HARPER-JHEM, Clerk

 DEPUTY

DEC 20 2011 13.1

Grantee

ATTACHMENT 1

**Project Cost Estimate for Grants and Cooperative Agreements Program - 2010/2011
Agency: Riverside County Regional Park and Open-Space District
Application: Restoration: CalMat Site**

APPLICANT NAME :	Riverside County Regional Park and Open-Space District		
PROJECT TITLE :	Restoration: CalMat Site	PROJECT NUMBER (Division use only) :	G10-03-60-R02
PROJECT TYPE :	<input type="checkbox"/> Acquisition <input type="checkbox"/> Development <input type="checkbox"/> Education & Safety <input type="checkbox"/> Ground Operations <input type="checkbox"/> Law Enforcement <input type="checkbox"/> Planning <input checked="" type="checkbox"/> Restoration		
PROJECT DESCRIPTION :	<p>The project will consist of two phases: Phase 1 - Completion and approval of the California Environmental Quality Act (CEQA) required activities for the project; and Phase 2 - Provide for restoration to a section of 'The Badlands' which separates the City of Moreno Valley from the City of Beaumont (CalMat site) within Riverside County. Restoration activities of the CalMat site include, but are not limited to: regrading and revegetation of areas damaged by unauthorized OHV use; perimeter fencing of the site (approximately 5 miles); and associated regulatory agency fees.</p> <p>The grantee is required to provide a minimum of 26 percent of the total project cost in matching funds.</p>		

	Line Item	Qty	Rate	UOM	Grant Req.	Match	Total
DIRECT EXPENSES							
Program Expenses							
1	Staff						
	Other-Park Planner	800.000	41.670	HRS	0.00	33,336.00	33,336.00
	Other-Park Ranger II	700.000	37.610	HRS	0.00	26,327.00	26,327.00
	Other-Ground Maintenance Worker	1202.000	33.750	HRS	0.00	40,568.00	40,568.00
	Other-Natural Resources Manager Notes : Primary Objective: Conduct site assessments and create monitoring reports prior, during and after the completion of the Landscape Restoration Phase of the project. The Natural Resource Manager will be responsible for all site monitoring and assessment reports	615.000	54.080	HRS	0.00	33,259.00	33,259.00

**Project Agreement General Provisions
(Local Agencies Only)**

A. Definitions

1. The term "State" as used herein means the California State Department of Parks and Recreation.
2. The term "Act" as used herein means the Off-Highway Motor Vehicle Recreation Act of 2003 as amended.
3. The term "Project" as used herein means the Project which is described on Attachment 1 of this agreement and in the Project Application, which is hereby incorporated into this agreement by reference.
4. The term "Application" as used herein means the individual Project Application and its required attachments pursuant to the enabling legislation, regulations, and/or Grant program, which is incorporated into this agreement by reference.
5. The term "Project Agreement" as used herein means the Application and the Project Agreement General Provisions.
6. The term "Grantee" as used herein means the party described as the Grantee on page 1 of the Project Agreement.

B. Project Execution

1. Subject to the appropriation and availability of Grant funds in the state budget, the State hereby awards to the Grantee the sum of money (Grant money) stated on page 1 of the Project Agreement in consideration of and on condition that the sum be expended in carrying out the purposes as set forth in the Project Description on Attachment 1 of the Project agreement and the terms and conditions set forth in this agreement.

The Grantee assumes the obligation to furnish any additional funds that may be necessary to complete or carry out the Project as described. Any modification or alteration in the Project as set forth in the Application on file with the State must be submitted to the State for approval. State's obligation to make Grant payments is limited to the Project as provided for herein, or as modified with the approval of the State.
2. The Grantee agrees to complete the Project in accordance with the Project performance period set forth on page 1 of the Project Agreement, and under the terms and conditions of this agreement.
3. If the Project includes development, the development plans, specifications and estimates or Force Account Schedule shall be reviewed and approved by the State prior to Grantee proceeding with the Project. Unless the development plans, specifications and estimates are approved by the State, the State shall have no obligation to make Grant payments for the work.

The Grantee, shall comply with all applicable current laws and regulations affecting Development Projects, including, but not limited to, legal requirements for construction contracts, building codes, health and safety codes, and laws and codes pertaining to individuals with disabilities. In addition, the Grantee shall complete the development work in accordance with the State approved development plans, specifications and estimates or Force Account Schedule. The Grantee shall make property or facilities acquired and/or developed pursuant to this agreement available for inspection upon request by the State to determine if development work is in accordance with the approved plans, specifications and estimates or Force Account Schedule, including a final inspection upon Project completion.

ATTACHMENT 2

4. If the Project includes acquisition of real property, and the cost of which is to be reimbursed with Grant moneys under this agreement, shall as required thereby, comply with Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code and any other applicable federal, state, or local laws or ordinances. Documentation of such compliance will be made available for review by the State upon request. Eminent domain may not be used to acquire property using the Grant funds provided by this agreement.
5. If the Project includes acquisition of real property, the purchase price shall be the fair market value of such property as established by an appraisal completed according to established current appraisal practices and methods as approved by both the Grantee and the State. Grantee agrees to furnish the State additional supportive appraisal material or justification as may be requested by the State to complete its review and approval of the fair market value.

Grantee agrees to furnish the State with preliminary title reports respecting such real property or such other evidence of title which is determined to be sufficient by the State. Grantee agrees to correct prior to or at the close of escrow any defects of title which in the opinion of State might interfere with the operation of the Project.

C. Project Costs

The Grant moneys to be provided to the Grantee under this agreement shall be disbursed as follows, but not to exceed in any event one-hundred (100) percent of the allowable Project costs or the State Grant amount as set forth on page 1 of this agreement whichever is less:

1. If the Project includes acquisition of real property, the State shall disburse to Grantee the Grant moneys as follows, but not to exceed in any event the State Grant amount set forth on page 1 of this agreement.

State will disburse the amount of the State approved purchase price together with State approved costs of acquisition. The State may elect to make disbursement for deposit into escrow.

2. If the Project includes development, after approval by State of Grantee's plans, specifications and estimates or Force Account Schedule and after completion of the Project or any phase or unit thereof, State shall disburse to Grantee upon receipt and approval by State of a statement of incurred costs from Grantee, the amount of such approved incurred costs shown on such statement, not to exceed the State Grant amount set forth on page 1 of this agreement, or any remaining portion of such Grant amount to the extent of such statement. Grantee, upon a showing that the Project may not proceed without advance funding, may request advance payment of those funds needed up to a maximum of ninety (90) percent of the State Grant amount allocated for development upon receipt and approval by State of Grantee plans, specifications and estimates or Force Account Schedule.

The statements to be submitted by Grantee shall set forth in detail the incurred or estimated cost of work performed or to be performed on development of the Project and whether performance will be by construction contract or by Force Account. Statements shall not be submitted, nor shall State make payments, more frequently than for work performed during ninety (90) day periods unless otherwise requested by State.

D. Project Administration

1. The Grantee shall promptly submit such progress, performance or other reports concerning the status of work performed on the Project as the State may request. In any event, the Grantee shall provide the State a report showing total final Project expenditures including State and all other moneys expended within one hundred twenty (120) days after completion of Project.
2. The Grantee shall make property and facilities maintained, operated, acquired or developed pursuant to this agreement available for inspection by the State upon request.

ATTACHMENT 2

3. The Grantee shall use any moneys advanced by the State under the terms of this agreement solely for the Project herein described.
4. The Grantee may be provided advanced payments for Grants but only for those that are for Planning, Acquisition, and Facility Operation and Maintenance. The Grantee shall place such moneys in a separate interest bearing account, setting up and identifying such account prior to the advance, interest earned on Grant moneys shall be used on the Project or paid to the State. If Grant moneys are advanced and not expended, the unused portion of the Grant (plus interest) shall be returned to the State within one hundred twenty (120) days of completion of the Project or end of the Project performance period, whichever is earlier.

Income, after deduction for reasonable expenses associated with that income, that is earned by the Grantee from a State approved non-recreational use on an acquisition Project, subsequent to taking title by the Grantee, but before use for OHV Recreation, must be used by the Grantee for recreational purposes at the Project.

5. Equipment must be used solely for OHV related purposes unless the Applicant is funding the portion of the purchase price not dedicated to OHV purposes

E. Project Termination

1. The Grantee may unilaterally rescind this agreement at any time prior to the commencement of the Project. After Project commencement this agreement may be rescinded, modified or amended by mutual agreement in writing.
2. Failure by the Grantee to comply with the terms of this agreement or any other agreement under the Act may be cause for suspension of all obligations of the State hereunder.
3. Failure of the Grantee to comply with the terms of this agreement or contract under the enabling legislation may be cause for suspension of all obligations of the State hereunder. However, such failure shall not be cause for the suspension of all obligations of the State hereunder if in the judgment of the State such failure was due to no fault and beyond the control of the Grantee to prevent, mitigate, or remedy.
4. Because the benefit to be derived by the State, from the full compliance by the Grantee with the terms of agreement, is the, operation, development, preservation, protection and net increase in the quantity and quality of public outdoor recreation facilities available to the people of the State of California and because such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the State by way of Grant moneys under the terms of this agreement, the Grantee agrees that payment by the Grantee to the State of an amount equal to the amount of the Grant moneys disbursed under this agreement by the State would be inadequate compensation to the State for any breach by the Grantee of this agreement. The Grantee further agrees therefore, that the appropriate remedy in the event of a breach by the Grantee of this agreement shall be the specific performance of this agreement, unless otherwise agreed to by the State. Notwithstanding the foregoing, in the event of a breach of this agreement, or any portion thereof, which is due to no fault and beyond the control of the Grantee to prevent, mitigate, or remedy, the State's sole remedy shall be the reimbursement of any funds advanced or paid that pertain to the breached term or terms of this agreement.

F. Hold Harmless

1. Grantee hereby waives all claims and recourse against the State including the right to contribution of loss of damage to persons or property arising from, growing out of or in any way connected with or incident to this agreement except claims arising from the concurrent or sole negligence of State, its officers, agents and employees.
2. The Grantee shall protect indemnify, hold harmless and defend State, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of the acquisition, development, construction, operation or maintenance of the property described as the Project which claims, demands or causes of action arise

ATTACHMENT 2

under Government code Section 895.2 or otherwise except for liability arising out of, and attributable to, the concurrent or sole negligence of State, its officers, or employees.

3. In the event State is named as codefendant under the provisions of Government Code Section 895 et seq., the Grantee shall notify the State of such fact and shall represent State in the legal action unless State undertakes to represent itself as codefendant in such legal action in which event the State shall bear its own litigation costs, expenses, and attorney's fees.
4. In the event of judgment against the State and the Grantee because of the concurrent negligence of the State and the Grantee, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request, and each party hereby waives its right to, a jury apportionment.

G. Financial Records

1. The Grantee shall retain all financial accounts, documents, and records for three (3) years from the expiration date of the Project agreement, or three (3) years from the start of an audit engagement, whichever comes first, and until an audit started during the three (3) years has been completed and a report published.
2. During regular office hours each of the parties hereto and their duly authorized representatives shall have the right to inspect and make copies of any books, records or reports of the other party pertaining to this agreement or matters related thereto.

H. Use of Facilities

1. The property acquired or developed with Grant moneys under this agreement shall be used by the Grantee only for the purpose for which the State Grant moneys were requested and no other use of the area shall be permitted except by specific act of the Legislature.
2. The Grantee shall without cost to State, except as may be otherwise provided in this or any other Grant agreement, operate and maintain the property acquired or developed pursuant to this agreement in the manner of and according to the provisions of this agreement, the Off-Highway Motor Vehicle Recreation Act and any related regulations, or any other provision of law which may be applicable to such operation and maintenance.
3. Use of the facilities shall comply with all applicable laws, including, but not limited to, the requirements for registration of all day use-vehicles with the Department of Motor Vehicles or identified under the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1993.

I. Nondiscrimination

1. The Grantee shall not discriminate against any person on the basis of sex, race, color, national origin, religion, ancestry, or physical handicap in the use of any property or facility acquired or developed pursuant to this agreement.
2. The Grantee shall not discriminate against any person on the basis of residence except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence and pursuant to law.
3. All facilities shall be open to members of the public generally, except as noted under the special provisions of this Project agreement.

J. Application Incorporation

1. The Application and any subsequent change or addition approved by the State is hereby incorporated in this agreement as though set forth in full in this agreement.

ATTACHMENT 2

K. Severability

1. If a provision of this agreement or the Application thereof is held invalid, that invalidity shall not affect other provisions or applications of the agreement which can be given effect without the invalid provision or Application, and to this end the provisions of this agreement are severable.

L. Governing Law

1. This agreement shall be construed in accordance with and be governed by the laws of the State of California. Any legal action arising out of the terms of this agreement shall take place in the county wherein the Project funded by this agreement is located. If the Project is located in or among two or more counties, any legal action shall be taken in the county wherein the largest land area of the Project is located.