

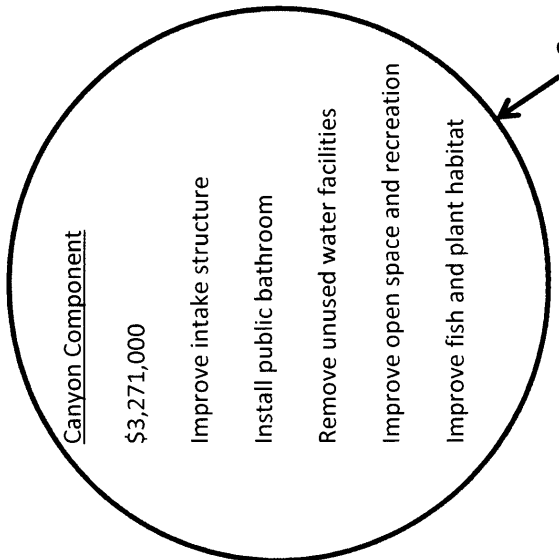
Attachment A
Schematic Hahamongna Basin Multi-Use Project Funding Status
Proposition 84 Integrated Resources Water Management

Former Hahamongna Basin Multi-Use Project

<u>Canyon Component</u>	<u>Basin Component</u>	<u>Matching Funding</u>
\$2,289,700	\$981,300	\$3,878,494 (PWD \$3,111,392 – PWP \$767,102)
Improve intake structure	Raise elevation approx. 8 acres	Westside Perimeter Trail Project
Install public bathroom	Restore sycamore woodland and sage scrub habitat	Berkshire Creek Project
Improve fish habitat connectivity		Sycamore Grove Field Project (partial)
		Water Capital Fund Spreading Grounds

Proposed Hahamongna Basin Multi-Use Project

<u>Canyon Component</u>	<u>Basin Component</u>	<u>Matching Funding</u>
\$3,271,000	\$0	\$4,653,836 (PWD \$3,111,392 – PWP \$1,542,444)
Improve intake structure		Westside Perimeter Trail Project
Install public bathroom		Berkshire Creek Project
Remove unused water facilities		Sycamore Grove Field Project (partial)
Improve open space and recreation		Water Capital Fund Spreading Grounds
Improve fish and plant habitat		FEMA Station Fire Canyon Improvements



**Council Action Requested
to Authorize MOUs with
LACFCD and ASF**

ATTACHMENT B

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (hereinafter referred to as AGREEMENT), is made and entered into as of the date of the last Party signature set forth below between the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT (hereinafter referred to as LACFCD), and City of Pasadena (hereinafter referred to as Local Project Sponsor (LPS)). The LACFCD and LPS are hereinafter referred to as Parties or, each individually, as Party for the following project: Hahamongna Basin Multi-Use Project (hereinafter referred to as Project(s)). The requested grant amount for the Project is \$3,271,000.

WITNESSETH

WHEREAS, in November 2006, the voters of California enacted the Safe Drinking Water, Water Quality, and Supply, Flood Control, River and Coastal Protection Bond Act, (hereinafter referred to as Proposition 84), adding provisions to the California Public Resources Code; and

WHEREAS, Proposition 84, commencing with Public Resources Code Section 75026 et seq., authorizes the Legislature to appropriate One Billion and 00/100 Dollars (\$1,000,000,000.00) for Integrated Regional Water Management (hereinafter referred to as IRWM) plans and projects (water resources-related projects that address water supply, water quality, and habitat/open space needs in a region); and

WHEREAS, the intent of the IRWM concept is to encourage integrated regional strategies for the management of water resources and to provide funding through competitive grants for projects that protect communities from drought, improve water reliability, protect and improve water quality, and improve local water security by reducing dependence on imported water; and

WHEREAS, the California Department of Water Resources (hereinafter referred to as DWR) issued Proposition 84 IRWM Grant Program Guidelines (hereinafter referred to as Guidelines) in August 2010, to establish the process and criteria to solicit applications, evaluate proposals, and award Proposition 84 grants under the IRWM Grant Program; and

WHEREAS, eligible grant recipients under the Guidelines are public agencies defined as a City, County, City and County, LACFCD, Joint Powers Authority, State agency or Department, or other political subdivision of the State, and nonprofit organizations defined as any California corporation organized under Sections 501(c)(3), 501(c)(4), or 501(c)(5) of the Federal Internal Revenue Code. Other entities that are part of the Regional Water Management Group responsible for applying for the grant may perform work funded by the grant; and

WHEREAS, under the Guidelines, the IRWM Grant Program consists of two separate solicitations: (1) planning grants and (2) implementation grants. Implementation grant proposals must be submitted by an IRWM Region that was accepted into DWR'S IRWM Grant Program through the 2009 Region Acceptance Process and must: (1) document adoption of an IRWM Plan (hereinafter referred to as Plan) prior to September 30, 2008, (2) enter into an agreement with DWR to update, within two years of

the execution of the agreement, the IRWM Plan to meet the IRWM Plan standards contained in the 2010 Guidelines, (3) describe specific implementation projects for which funding is being requested, and (4) identify matching funding; and

WHEREAS, the Plan for the Greater Los Angeles County Region (hereinafter referred to as Region) was adopted on December 13, 2006, and will facilitate a regional approach to watershed management by establishing collaborative efforts across the watersheds within the Region; and

WHEREAS, the Region was accepted into DWR'S IRWM Grant Program through the 2009 Region Acceptance Process in September 2009.

WHEREAS, the Region's IRWM Group, which includes the Region's participating local entities and the LPSs identified in Exhibit F of the Grant Agreement, designated LACFCD as the regional entity to apply for grant funds on behalf of all proposed projects for the Region, through the IRWM process; and

WHEREAS, the implementation grant proposal for the Region included thirteen (13) separate projects sponsored by the following local entities, solely or jointly, (the projects are identified in Exhibit F to the Grant Agreement between DWR and LACFCD, which Grant Agreement, including all Exhibits thereto, is attached hereto and incorporated herein as Attachment A): The City of Calabasas, City of Hawthorne, City of Los Angeles Department of Public Works' Bureau of Sanitation, City of Los Angeles Department of Water and Power, City of Pasadena, City of Rolling Hills Estates, City of Santa Monica, Covina Irrigating Company, Three Valleys Municipal Water District, West Basin Municipal Water District, and Water Replenishment District;

WHEREAS, for IRWM projects funded under the implementation grant that will be implemented with the participation of more than one entity, Parties agree that the LPS will be a single entity that is responsible for implementation of the Project and which has the authority to enter into this Agreement on behalf of all entities participating in the Project(s).

WHEREAS, LPS assumes all responsibilities and liabilities for the Project(s) under this Agreement (including the Grant Agreement responsibilities allocated to LPS under this Agreement). LPS will be the entity that invoices LACFCD, submits required information, including reports, notices and notifications, to LACFCD and provides any documentation and information requested or required under this Agreement or the Grant Agreement by LACFCD with respect to the implementation of the Project. In the event that the Project is to be implemented by more than one entity, LPS shall ensure that it has entered into appropriate written agreement(s) with each of the other entities to confirm the authority of LPS to enter into this Agreement on their behalf, and that each of the other entities agrees to defend, indemnify and hold harmless LACFCD to the same extent as the LPS provides to LACFCD in this AGREEMENT. Further, each entity participating in a Project acknowledges full responsibility for the implementation of the Project, including all responsibilities identified in this Agreement as well as the Grant Agreement and commits to the fulfillment of their respective obligations with respect to the Project. As to LACFCD, LPS remains solely responsible for all aspects of the Project; and

WHEREAS, DWR has indicated that it will award an implementation grant of up to Twenty-five Million, Six Hundred Thousand and 00/100 Dollars (\$25,600,000.00) to the LACFCD on behalf of the Region's LPSs; and

WHEREAS, DWR has indicated that it will enter into an agreement (hereinafter referred to as Grant Agreement) with LACFCD, for the administration of the implementation grant funds with respect to the 13 projects, including LPS'S Project(s); and

WHEREAS, LPS desires that LACFCD execute the anticipated Grant Agreement with DWR and perform the role of Grantee therein on LPS'S behalf so that LPS can receive and benefit from the Proposition 84 grant funds for its Project(s) in the amount to be identified in Exhibit C to the Grant Agreement;

WHEREAS, LACFCD and LPS desire to enter into this Agreement to clarify their respective responsibilities with respect to the anticipated grant from DWR and the Parties' responsibilities pursuant to the Grant Agreement; specifically, the Parties intend that LACFCD'S role will be to administer the grant funding and submit documentation required under the Grant Agreement to DWR on behalf of LPS. LPS will be responsible for all other activities required under the Grant Agreement related to its Project(s), including, but not limited to, construction, monitoring, project management, operations and maintenance, and legal compliance; and

WHEREAS, LPS has agreed to allow LACFCD to withhold two and a half percent (2.5 percent) of the invoiced grant amount upon payment by DWR to LACFCD for the Project as reimbursement to LACFCD for its administrative efforts, management, and project oversight efforts with respect to the IRWM Grant.

WHEREAS the PARTIES acknowledge that although LACFCD will serve as Grantee under the Grant Agreement, LACFCD will have no project which will receive grant funding under the Grant Agreement, and will have a limited role with respect to the Project(s) as defined herein and in the Grant Agreement. Further, LACFCD will not approve any aspect of the Project(s) or provide any resources related to implementation of the Project(s) outside of grant funding, if any, which is provided to LACFCD from DWR, specifically for the Project(s).

NOW, THEREFORE, LACFCD and LPS hereby agree as follows:

LACFCD'S RESPONSIBILITIES

Section (1) LACFCD AGREES TO:

- (1) Provide staff to oversee grant administration, manage grant funds, and provide project oversight as related to the grant.
- (2) Establish an independent account to manage the grant funds for each Project and will include routine updates to the balance and activities of each account.
- (3) Receive from LPS and submit to DWR the reports and information prepared and provided by LPS for each Project as requested by LACFCD and/or as required under the Grant Agreement.
- (4) LACFCD may execute amendments to the Grant Agreement on behalf of the LPS, upon written request and approval by LPS and after LPS negotiates with DWR.

- (5) Process grant reimbursement requests submitted by LPS, including submission of such requests to DWR and, only upon receipt of funds from DWR related to the invoices submitted, provide reimbursement to LPS, less two and a half percent (2.5 percent) of the invoiced amount paid for the Project for grant administration and other activities identified in Section (1)(1) above. All required reimbursements shall be paid to LPS within thirty (30) days of receipt by LACFCD of funds from DWR.

LACFCD agrees to the above responsibilities for as long as the Grant Agreement remains in effect.

LPS RESPONSIBILITIES

Section (2) LPS AGREES TO:

- (1) Retain sole and full responsibility for all aspects of LPS'S Project(s) as identified in the Grant Agreement, including any approved amendments, including, but not limited to: planning, design, review and approval of plans, specifications, bid documents and construction documents, implementation, construction, management, project oversight, monitoring, inspections, operation and maintenance, submission of project reimbursement billing requests, provision of reports, notifications and notices, compliance with all legal requirements related to the Project(s) such as lead agency responsibilities, and all other applicable local, State and Federal statutes and regulations related to the Project(s) for the lifetime of the Project notwithstanding any early termination of this Agreement.
- (2) Plan, design, construct, and continuously operate and maintain LPS'S Projects(s) pursuant to LPS'S Work Plan as identified in Exhibit A to the Grant Agreement. LPS agrees to notify LACFCD and receive LACFCD'S written approval as well as that of DWR in advance of implementing any proposed changes to LPS'S Project, including proposed future changes to the Work Plan.
- (3) Comply with all terms, provisions and commitments contained in the Grant Agreement, including all exhibits and attachments thereto, applicable to LPS or to LACFCD as Grantee or to representatives of Grantee under the Grant Agreement, whether or not herein specifically referenced, (with the exception of responsibilities identified in Section (1)(1) above which are solely responsibilities of LACFCD) for the lifetime of the Project(s). The Parties agree that responsibilities of LPS, Grantee, representatives of Grantee or activities for which LACFCD (as Grantee) and LPS may be listed as jointly responsible under the Grant Agreement, shall remain the sole responsibility of LPS, with the exception of activities herein listed as LACFCD'S RESPONSIBILITIES. Responsibilities for which LACFCD (as Grantee) and LPS may be listed as jointly responsible under the Grant Agreement, and for which the LPS is solely responsible for include, but are not limited to:
 - (a) Comply with all applicable environmental requirements pertaining to the Project, including, but not limited to, the California Environmental Quality Act (CEQA), the State CEQA Guidelines and, if applicable, the National Environmental Policy Act (NEPA). Submit documents that satisfy the CEQA and NEPA process as well as any mitigation agreements, and environmental

permits, including, but not limited to, DWR'S Environmental Information Form. The Parties agree that LACFCD is not responsible for any aspect of environmental compliance with respect to the Project including any proposed future changes to LPS'S Project and no project may be implemented absent LPSs compliance with CEQA and other environmental laws and regulations. Prior to submission of each invoice to LACFCD under this Agreement, LPS agrees to submit written confirmation to LACFCD, in a format to be specified by LACFCD, that it has complied with all requirements of the Grant Agreement, including, but not limited to compliance with CEQA and, as applicable, NEPA for LPS'S Project, including all work covered under the invoice.

- (b) Comply with all applicable California Labor Code requirements, including prevailing wage provisions, and adopt and enforce a Department of Industrial Relations certified Labor Compliance Program meeting the requirements of Labor Code Section 1771.5 for projects funded by Proposition 84. LPS shall keep informed of legislative changes and take all measures necessary to ensure compliance with California Labor Code requirements.
 - (c) Comply with Urban Water Management Planning (UWMP) Act requirements, (CWC §10610-10656), and the requirements CWC §10608.16-10608.44, if the LPS is an urban water supplier. Submit a 2010 Urban Water Management Plan UWMP to DWR, if yet to be submitted. LPS acknowledges that DWR may withhold execution of the grant agreement or disbursing grant funds until each urban water supplier's 2010 UWMP is received and accepted by DWR.
 - (d) Conform to the requirements of an adjudication of water rights or demonstrate active participation to the implementation of a Groundwater Management Plan that is in compliance with CWC §10753.7, if the LPS'S project is regarding groundwater management or recharge, or has potential groundwater impacts.
- (4) Demonstrate availability of funds to complete the project by submitting the most recent three years of audited financial statements and provide cost share funding match for the LPS'S project in the amount identified in Exhibit C of the Grant Agreement.
 - (5) Ensure that any and all permits, licenses and approvals required for its Project(s) are obtained in a timely manner and maintained in effect as legally required.
 - (6) Submit not more than one reimbursement request per month to LACFCD, in the format specified by LACFCD, executed by an authorized individual at LPS who is knowledgeable of the information and certifies and warrants the accuracy of the information contained in the reimbursement request.
 - (7) Allow LACFCD to withhold two and a half percent (2.5 percent) of the invoiced grant amount as paid by DWR for the Project as reimburseable to LACFCD for its grant administrative services as described in Section (1)(1) above.

- (8) Prepare, provide and ensure accuracy of all deliverables, reports, documentation, notifications, notices and information related to the Project as required under the Grant Agreement and/or requested by LACFCD to assist LACFCD and to enable LACFCD or LPS to provide information required under the Grant Agreement to DWR in a prompt and timely manner, in accordance with the provisions of the Grant Agreement.
- (9) Inform DWR and the LACFCD of any material changes related to the Project(s) as soon as possible, including, but not limited to, the progress of construction, Project budget(s), and Project Benefits, through reporting process or other methods established by DWR and/or the LACFCD.
- (10) Repay the LACFCD any amount owed to DWR within 30 days of written notification, if for any reason DWR determines that LPS'S project(s) is no longer entitled to grant funds.
- (11) Provide regular and ongoing inspections of construction work in progress and be responsible to keep work under control. Authorize LACFCD to inspect the Project(s), at LACFCD'S discretion, to review the progress of the Project(s).
- (12) Accept all liabilities and hold LACFCD legally and financially harmless if it is determined by court of law that LPS'S allocation and use of the grant and matching funds is in violation of any applicable statutes, regulations, ordinances, guidelines, or requirements, including, but not limited to, grant requirements, and/or requirements governing contracting, and subcontracting, unless such violation(s) is due to LACFCD'S willful misconduct.
- (13) Retain sole responsibility for persons performing work related to the Project, including, but not limited to, employees, contractors, subcontractors, suppliers and providers of services.
- (14) Maintain sole responsibility for any and all disputes arising out of contracts for implementation of the Project(s), including, but not limited to, payment disputes involving representatives of LPS, contractors and subcontractors. LPS acknowledges that LACFCD will not mediate or be involved with disputes between LPS and any other entity concerning responsibility for performance of work related to the Project.
- (15) Comply with all Basic Conditions and Conditions for Disbursement set forth in the Grant Agreement at all times.
- (16) Designate in writing a Project Manager with the full authority to act on behalf of LPS on any matter related to the Project(s), and advise LACFCD and DWR immediately in writing of any change in Project Manager.

Section (3) TERMINATION OF AGREEMENT

- (1) This Agreement shall remain in effect while the Grant Agreement or any provision of the Grant Agreement remains in effect. LPS'S indemnification will remain in effect

for the lifetime of Project(s). Following termination of the Grant Agreement, LPS shall remain solely responsible for any liability, costs or expenses related to its Project(s), including any request for repayment by DWR related to LPS'S Project(s) and/or any other costs, fees and/or penalties, such as costs related to allegations of default under Section 13 of the Grant Agreement, which may be asserted against LACFCD by DWR related to the LPS'S Project(s). LPS acknowledges that in no event shall LACFCD be responsible for any liability, costs, or expenses related to LPS'S Project(s) or for the performance of work on, or the operation or maintenance of, the completed Project(s) as a result of the termination of the Grant Agreement or for any other reason.

Section (4) GENERAL INDEMNIFICATION

- (1) LPS shall indemnify, defend, and hold harmless LACFCD, the County of Los Angeles, Special Districts for which the Board of Supervisors for the County of Los Angeles and LACFCD acts as the governing body, elected and appointed officers, employees and agents from and against any and all liability, including, but not limited to, defense costs, demands, claims, allegations of default or breach of the Grant Agreement or this Agreement, actions, fees, costs and expenses (including attorney and expert witness fees) arising from or relating to: acts or omissions of the LPS related to its Project(s) and/or any acts or omissions of LACFCD made on behalf of or for the benefit of LPS pursuant to this Agreement, including, but not limited to, LACFCD'S actions or activities in administering the grant funding and other LACFCD responsibilities set forth in Section (1)(1), but not including any acts or omissions of the LACFCD that involve the LACFCD'S active negligence or willful misconduct. As part of this indemnity, LPS agrees not to seek any funding from LACFCD other than funds provided by DWR to LACFCD specifically identified for LPS'S Project(s), regardless of the failure, for whatever reason, by DWR to fund all or part of its grant commitment related to the Project, including any withholding of all or a portion of grant funds by DWR and/or any request for repayment of funds by DWR and/or LACFCD as specified in the Grant Agreement. Liability arising from the active negligence or willful misconduct of LACFCD is excluded under this section. This indemnity section shall remain in effect while the Grant Agreement, or any of its terms, is in effect and shall survive the termination, for any reason, of the Grant Agreement or this Agreement and shall remain in effect during the lifetime of the Project(s).
- (2) LACFCD shall indemnify, defend, and hold harmless LPS, its successors and assigns, officers, employees, and agents from and against any and all liability, including, but not limited to, defense costs, demands, claims, allegations of default or breach of this Agreement, including actions, fees, costs and expenses arising from or relating to: active negligence or willful misconduct in LACFCD'S performance of LACFCD'S RESPONSIBILITIES under this Agreement. This indemnity section shall remain in effect while the Grant Agreement, or any of its terms, is in effect and shall survive the termination, for any reason, of the Grant Agreement or this Agreement.
- (3) LPS understands and agrees that it has complied and continues to comply with the requirements set forth in CEQA and the State CEQA Guidelines for its Project(s). LPS understands and agrees that it is ultimately and solely responsible for

compliance with all applicable CEQA and NEPA requirements, including any mitigation measures required for the Project. Prior to submission of each invoice to LACFCD pursuant to this Agreement, LPS will confirm in writing to LACFCD, in a format to be specified by LACFCD, that it has complied with CEQA and applicable NEPA requirements for LPS'S Project, including all work covered under each invoice, and shall provide appropriate evidence of its compliance. In addition, LPS agrees to submit written confirmation of CEQA and applicable NEPA compliance prior to implementing any future changes to its Project. LPS hereby agrees to indemnify, defend, and hold harmless LACFCD, the County of Los Angeles, Special Districts for which the Board of Supervisors for County of Los Angeles and LACFCD acts as the governing body, elected and appointed officers, employees, and agents from and against any and all claims and/or actions related to the Project(s) that may be asserted by any third party or public agency alleging violations of CEQA or the CEQA Guidelines, the NEPA and/or other Federal, State, and local laws, rules, and regulations, guidelines, and requirements for the Project while the Grant Agreement, or any of its terms, is in effect and shall survive the termination, for any reason, of the Grant Agreement or the Agreement and shall remain in effect during the lifetime of the Project.

Section (5) CHILD SUPPORT LAWS

(1) LACFCD'S Policy on Child Support Laws

LPS acknowledges that LACFCD places a high priority on the enforcement of child support laws and the apprehension of child support evaders. LPS understands that it is LACFCD'S policy to encourage all LACFCD contractors to voluntarily post LACFCD'S Los Angeles Most Wanted, Delinquent Parents List, in a prominent position at LPS place of business.

(2) Child Support Compliance Program

As required by LACFCD'S Child Support Compliance Program (County Code Chapter 2.200), LPS shall maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653) and California Unemployment Insurance Code Section 1088.5, and shall implement lawfully served Wage and Earnings Withholding Orders or LACFCD Attorney Notice of Wage Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure, Section 706.031 and Family Code, Section 5246(b).

(3) Termination for Noncompliance with Child Support Requirements

LPS shall maintain compliance with requirements of LACFCD'S Child Support Compliance Program as certified in LPS'S Child Support Compliance Program Certification and as set forth in this Agreement. Failure of LPS to maintain compliance with these requirements will constitute a default under this Agreement. Failure to cure such a default within ninety (90) days of notice by LACFCD shall be grounds upon which LACFCD may give notice of termination and terminate this Agreement.

Section (6) NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

- (1) LPS shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

Section (7) PROHIBITION AGAINST USE OF CHILD LABOR

LPS shall:

- (1) Not knowingly sell or supply to LACFCD any products, goods, supplies or other personal property manufactured in violation of child labor standards set by the International Labor Organization through its 1973 Convention Concerning Minimum Age for Employment; and,
- (2) Upon request by LACFCD, provide the country/countries of origin of any products, goods, supplies, or other personal property LPS supplies to LACFCD; and,
- (3) Upon request by LACFCD, provide to LACFCD the manufacturer's certification of compliance with all international child labor conventions.

Should LPS discover that any products, goods, supplies, or other personal property sold or supplied by LPS to LACFCD are produced in violation of any international child labor conventions, LPS shall immediately provide an alternative, compliant source of supply.

Failure by LPS to comply with provisions of this clause will be grounds for immediate cancellation of this Agreement.

Section (8) TERMINATION FOR IMPROPER CONSIDERATION

LACFCD may, by written notice to LPS, immediately terminate the right of LPS to proceed under this Agreement if it is found that consideration, in any form, was offered or given by LPS, either directly or through an intermediary, to any LACFCD officer, employee, or agent with the intent of securing this Agreement or securing favorable treatment with respect to the award, amendment, or extension of this Agreement or the making of any determinations with respect to LPS performance pursuant to this Agreement. In the event of such termination, LACFCD shall be entitled to pursue the same remedies against LPS as it could pursue in the event of default by LPS.

LPS shall immediately report any attempt by a LACFCD officer or employee to solicit such improper consideration. The report shall be made either to LACFCD manager charged with the supervision of the employee or to LACFCD Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 554-6861.

Among other items, such improper consideration may take the form of cash, discounts, services, the provision of travel, entertainment, or tangible gifts.

Section (9) NOTIFICATION

- (1) Any notices, bills, invoices, or reports relating to this Agreement, and any request, demand, statement or other communication required or permitted hereunder shall be in writing and
 - (a) shall be delivered to the representatives of the Parties at the addresses set forth below, except that any Party may change the address for notices by giving the other Party at least ten (10) days written notice of the new address:

LACFCD:

Mr. Phil Doudar, Principal Engineer
Watershed Management Division, 11th Floor
Los Angeles County Flood Control District
County of Los Angeles Department of Public Works
900 South Fremont Avenue
Alhambra, CA 91803-1331

LPS:

Mr. Loren Pluth, Project Manager
City of Pasadena
100 North Garfield Avenue N 306
Pasadena, CA 91101

- (b) or when LACFCD establishes a process to electronically upload some of the above-stated information via the Web, the LPS shall submit the information accordingly as directed by LACFCD.

Section (10) MUTUAL COVENANTS

- (1) Governing Law: This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.
- (2) Amendment: No variation, modification, change, or amendment of this Agreement shall be binding upon any Party unless such variation, modification, change, or amendment is in writing and duly authorized and executed by both Parties. This Agreement shall not be amended or modified by oral agreements or understandings between the Parties or by any acts or conduct of the Parties. Notwithstanding the above, the Parties agree that any amendment to the Grant Agreement shall become part of this Agreement upon the provision of written notice to the LPS without the necessity of further written agreement between the Parties absent the immediate provision of written objection by LPS to LACFCD.
- (3) Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous agreements and understandings.

- (4) **No Third Party Beneficiary/Successors and Assigns:** This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provisions of this Agreement.
- (5) **Waiver:** No waiver of any breach or default by any Party shall constitute a waiver of any other breach or default, nor shall any such waiver constitute a continuing waiver. Failure of any Party to enforce at any time or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.
- (6) **Covenant:** All provisions of this AGREEMENT, whether covenants or conditions, on the part of LPS shall be deemed to be both covenants and conditions.
- (7) **Interpretation:** All Parties have been represented by counsel in the preparation and negotiation of this Agreement. Accordingly, this Agreement shall be construed according to its fair language and any ambiguities shall not be resolved against the drafting Party simply by virtue of having drafted the ambiguous provision.
- (8) **Assignment:** No Party shall assign this Agreement or any of such Party's interest, rights, or obligations, under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld except that any Party may assign the Agreement, or any part thereof, to any successor governmental agency performing the functions of the assigning Party as its successor.
- (9) **Manner of Execution:** The Agreement may be executed simultaneously in counterpart, each of which shall be deemed an original, but together, shall constitute but one and the same instrument.
- (10) **Relationship of Parties:** The Parties are, and at all times shall remain as to each other, wholly independent entities. No Party to this Agreement shall have the power to incur any debt, obligation, or liability on behalf of any other Party unless expressly provided to the contrary by this Agreement. No employee, agent, or officer of a Party shall be deemed for any purpose whatsoever to be an agent, employee, or officer of another Party.
- (11) **Successors:** This Agreement shall be binding upon and shall insure to the benefit of the respective successors, heirs and assigns of each Party.

Section (11) NEGATION OF PARTNERSHIP

Nothing in this Agreement shall be construed to render LACFCD in any way or for any purpose a partner, joint venturer, or associate in any relationship with LPS, nor shall this Agreement be construed to authorize either Party to act as agent for the other Party unless expressly provided in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this AGREEMENT to be executed by their respective officers, duly authorized by the LPS on _____, 2012, and by the LACFCD on _____, 2012.

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT

By _____
Chief Engineer

APPROVED AS TO FORM:

JOHN F. KRATTLI
County Counsel

By _____
Deputy

Agency (LPS)

By _____
Name and Title

APPROVED AS TO FORM:
(NAME)

By _____