

**PROPOSITION 1
INTEGRATED REGIONAL WATER MANAGEMENT
IMPLEMENTATION GRANT
SUBGRANT AGREEMENT**

Between the Santa Barbara County Water Agency and City of Lompoc

This Proposition 1 Integrated Regional Water Management (“IRWM”) Subgrant Agreement (“AGREEMENT”) is made this ____ day of _____, 2023, between the Santa Barbara County Water Agency (“AGENCY”) and the City of Lompoc (“SUBGRANTEE”) (collectively “PARTIES”), regarding the approved grant funded project component known as the Leak Detection and Repair Project (“PROJECT COMPONENT”).

RECITALS

- A. AGENCY submitted a grant proposal and application to the California Department of Water Resources (“DWR”) for the Proposition 1 Implementation Round 2 IRWM Grant;
- B. DWR has approved AGENCY’S grant application;
- C. AGENCY is an eligible grant recipient, and is willing to serve as the single grantee for the Santa Barbara County IRWM Region under the Grant Agreement with DWR and to enter into Subgrant Agreements with the other public agencies for state-approved project components in the Santa Barbara County IRWM Plan and to act as the administrator of the grant, on the terms and conditions set forth herein;
- D. SUBGRANTEE wishes to carry out the approved grant PROJECT COMPONENT known as the Leak Detection and Repair Project and consents to implement PROJECT COMPONENT through this AGREEMENT with AGENCY;

E. AGENCY, as an eligible grant recipient, will enter into the Grant Agreement with DWR to implement the approved PROJECT COMPONENT and to administer the applicable grant requirements; and

F. SUBGRANTEE is willing and committed to meet all DWR requirements under the Grant Agreement for PROJECT COMPONENT, including providing matching funds or in-kind match activities, and will reimburse AGENCY for any administrative costs incurred by AGENCY or its contractors.

NOW, THEREFORE, in consideration of the mutual promises herein and other good and valuable consideration, the receipt of which is hereby acknowledged, IT IS MUTUALLY AGREED BY THE PARTIES THAT:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.

2. **Parties Roles.** AGENCY shall act as the grantee for the Santa Barbara County IRWM Region and enter into a Grant Agreement with DWR to implement the approved PROJECT COMPONENT and to administer the applicable grant requirements. AGENCY may contract with third parties for the administrative services called for in the Grant Agreement. SUBGRANTEE shall complete PROJECT COMPONENT in compliance with the Grant Agreement.

3. **Agency's Responsibilities.** Subject to DWR requirements and direction, and in accordance with the terms of the Grant Agreement, AGENCY shall:

- a) Pay grant funds to SUBGRANTEE for work on PROJECT COMPONENT for activities completed in accordance with the terms of the Grant Agreement, upon receipt of grant funds for that work from the DWR;

- b) Timely submit to DWR invoices, reports, and assurances received from SUBGRANTEE prepared to meet the accounting, reporting and other requirements in the Grant Agreement for PROJECT COMPONENT; and
- c) Maintain files and accounts for PROJECT COMPONENT in accordance with the Grant Agreement and with assistance from AGENCY's consultant.

However, in acting pursuant to this AGREEMENT and the Grant Agreement:

- d) AGENCY shall have no responsibility for maintenance of or insurance for PROJECT COMPONENT.
- e) AGENCY is not acting as a surety. This AGREEMENT is not a performance, payment, completion or labor and materials bond. AGENCY does not guarantee or warrant that implementation of PROJECT COMPONENT will proceed, be completed, or that the grant funds for PROJECT COMPONENT will be sufficient to meet incurred expenses. AGENCY does not guarantee or warrant any studies, plans and specifications for PROJECT COMPONENT. AGENCY does not guarantee or warrant any estimated construction costs or budget set forth in either the grant application or Grant Agreement. AGENCY shall have no responsibility for any aspect of bidding and selection of consultants, contractors and subcontractors to perform any aspect of the work of PROJECT COMPONENT under this AGREEMENT. Instead, AGENCY is only acting as a conduit: 1) for transfer of grant funds to SUBGRANTEE for PROJECT COMPONENT in furtherance of the Grant Agreement, and 2) for the transmission of invoices, reports, financial information and state disclosure assurances and other information required by the Grant Agreement to be transmitted from SUBGRANTEE to AGENCY.

f) AGENCY does not guarantee or warrant that it will pay any invoice submitted by SUBGRANTEE until funds for approved invoices have actually been transmitted by DWR to AGENCY. AGENCY assumes no liability to any entity, including but not limited to, SUBGRANTEE, and any consultants, contractors and subcontractors on PROJECT COMPONENT for any delays or reductions by DWR in approval or transmittal of grant funds to AGENCY.

4. **Subgrantee's Responsibilities.** SUBGRANTEE shall:

- a) Carry out, build and/or perform PROJECT COMPONENT in accordance with all requirements for PROJECT COMPONENT as set forth in the Grant Agreement, attached hereto as Exhibit 1. All Exhibits are incorporated herein by this reference and SUBGRANTEE agrees to be bound to and comply with all of the terms, conditions, and obligations contained within the Exhibits. SUBGRANTEE shall allow AGENCY and DWR access to any work sites or other areas associated with the project for the purpose of making observations or conduction any necessary tests or studies;
- b) Prepare and submit project documents in accordance with the terms of the Grant Agreement;
- c) Fulfill all assurances, declarations, representations and commitments made by SUBGRANTEE in support of SUBGRANTEE's request for grant funds.

SUBGRANTEE agrees to all requirements and limitations of the Grant Agreement for PROJECT COMPONENT;

- d) Return any audit disallowance, including, but not limited to, any interest, penalties and other costs or expenses, related to PROJECT COMPONENT, as provided in the Grant Agreement to AGENCY for transmission to DWR;
- e) Be solely responsible for compliance with all applicable laws, policies and regulations in carrying out this AGREEMENT and PROJECT COMPONENT, in accordance with the Grant Agreement; and
- f) Proceed with all reasonable diligence in: (i) the commencement and completion of PROJECT COMPONENT; (ii) submission of written reports identified in the Grant Agreement, including providing AGENCY a Project Completion Report, and Post Performance Reports annually for a total of three years after the PROJECT COMPONENT begins operation, financial information, insurance, bonds, and assurances required by the Grant Agreement for PROJECT COMPONENT; and (iii) submittal of requests for payment fully compliant with the Grant Agreement, and accompanied by written verification certified under penalty of perjury that the request for payment is truthful and accurate and the described costs have all been incurred solely for PROJECT COMPONENT.
- g) Funding for this project has been provided in full or in part from the Water Quality, Supply, and Infrastructure Improvement Act of 2014 and through an agreement with DWR. SUBGRANTEE shall include in each of its contracts for work under this Agreement a provision that requires appropriate acknowledgement of credit to the State for its support when promoting the Project or using any data and/or information developed under this Grant Agreement. Signage shall be posted in a prominent location at the Project site(s) (if applicable) and shall include the Department of Water Resources color logo and the following disclosure statement: "Funding for this project has been provided in full or in part

from the Water Quality, Supply, and Infrastructure Improvement Act of 2014 and through an agreement with the State Department of Water Resources.”

5. **Altering the Project Component.** In the event SUBGRANTEE wishes to substantially alter the schedule, materials, methods or deliverables related to PROJECT COMPONENT, SUBGRANTEE shall immediately provide notice to AGENCY as set forth in the Grant Agreement. AGENCY shall timely forward SUBGRANTEE’s request for alteration to DWR for its consideration. No alternations will be allowed unless approved by DWR and AGENCY in writing.

6. **Grant Communications.** SUBGRANTEE’s questions and other communications related to the Grant Agreement or performance of work under the Grant Agreement shall be directed to AGENCY’s representatives for resolution with DWR. AGENCY shall promptly relay SUBGRANTEE’s questions and communications to DWR.

7. **Funding and Budgets.**

a) SUBGRANTEE shall pay or cause to be paid and provide all required grant matching funds or in-kind matching services for PROJECT COMPONENT, shall provide all necessary environmental review, and shall obtain all required permits for PROJECT COMPONENT.

b) AGENCY and SUBGRANTEE agree that the initial budget for PROJECT COMPONENT is:

Proposition 1	Cost Share: Non-State Fund Source	Other Cost Share	Total
\$449,993	\$0	\$45,481	\$495,474

This budget may be adjusted in accordance with the Grant Agreement.

- c) AGENCY shall use all funds it receives for PROJECT COMPONENT from DWR under the Grant Agreement solely and exclusively for the purposes set out in this AGREEMENT for PROJECT COMPONENT; provided, however, that AGENCY shall not be responsible for any funds paid out as a result of error, fraud, forgery or misrepresentation.
- d) It is agreed by the PARTIES that if any applicable federal or state budget act of the current year and/or any subsequent years does not appropriate sufficient funds for the grant, then this AGREEMENT shall be suspended until such time as funding is appropriated. This AGREEMENT shall terminate if the Grant Agreement is canceled by DWR. In this event, except for those funds already received from DWR and approved for payment for work on PROJECT COMPONENT, AGENCY shall have no liability to transmit any funds for work on PROJECT COMPONENT to SUBGRANTEE. SUBGRANTEE agrees to indemnify and defend and hold AGENCY harmless from any claims asserted against AGENCY by any person or entity in the event that the applicable federal or state budget act does not appropriate sufficient fund for PROJECT COMPONENT.
- e) SUBGRANTEE agrees that any fund retention applied by DWR to satisfy the Grant Agreement may delay disbursement of the retention amount to AGENCY and therefore SUBGRANTEE.

8. **Designated Representative.** The signature of SUBGRANTEE's Project Manager, Steven Valle, on the requests for payment to AGENCY submitted by SUBGRANTEE shall conclusively and finally establish the right of AGENCY to draw checks as so requested,

subject to AGENCY's performance of its responsibilities as the Local Project Sponsor pursuant to the Grant Agreement, and subject to the DWR's transmittal of grant monies to AGENCY for PROJECT COMPONENT and subject to SUBGRANTEE's compliance with the Grant Agreement. Changes to authorized signatures shall be accomplished by written notice from SUBGRANTEE to AGENCY pursuant to Section 19 (Notices).

9. **Indemnification.** SUBGRANTEE shall indemnify and hold and save the AGENCY, its officers, agents, and employees, free and harmless from any and all liabilities for any claims and damages (including inverse condemnation) that may arise out of PROJECT COMPONENT and this AGREEMENT, including, but not limited to any claims or damages arising from planning, design, construction, maintenance and/or operation of levee rehabilitation measures for PROJECT COMPONENT and any breach of this AGREEMENT by SUBGRANTEE. SUBGRANTEE shall require its contractors or subcontractors to name the AGENCY, its officers, agents and employees as additional insureds on their liability insurance for activities undertaken pursuant to this AGREEMENT. SUBGRANTEE shall also require its contractors or subcontractors to name DWR, its officers, agents and employees as additional insureds on their liability insurance for activities undertaken pursuant to this AGREEMENT.

10. **Insurance.** AGENCY shall not be responsible for securing insurance, including, but not limited to, protection against loss or damage to PROJECT COMPONENT or any pre-purchased materials for said PROJECT COMPONENT, including, but not limited to, losses due to the following: fire, earthquake, vandalism or theft. AGENCY is not responsible or liable for any loss or damage resulting from the failure to secure insurance or from any lack of coverage. At a minimum, SUBGRANTEE shall provide all insurance coverages as required for PROJECT COMPONENT in the Grant Agreement.

SUBGRANTEE, at its sole expense, shall ensure that AGENCY, including its board, officers, consultants, employees, agents and volunteers, and that DWR, including its officers, employees, and agents, are named as additional insured, and insured in the same amount as SUBGRANTEE, on all insurance policies which SUBGRANTEE is required to obtain pursuant to the Grant Agreement. SUBGRANTEE agrees to provide AGENCY with written documentation that AGENCY and DWR have been so named as an additional insured on all insurance policies which SUBGRANTEE is required to obtain pursuant to the Grant Agreement.

11. **Assignment.** AGENCY shall not be obligated to recognize any assignment of this AGREEMENT by SUBGRANTEE to any third party, except as agreed to in writing by AGENCY and SUBGRANTEE.

12. **Severability.** Should any provision of this AGREEMENT be found invalid, such invalidity shall not, in any way, affect the remaining provisions of this AGREEMENT.

13. **Third Party Beneficiaries.** This AGREEMENT is only for the benefit of the PARTIES and not for the benefit of any third party, other than DWR and AGENCY.

14. **Independence of Contracting Parties.** Nothing in this AGREEMENT shall create any contractual relationship between any contractor, subcontractor, or consultants of SUBGRANTEE and AGENCY. SUBGRANTEE agrees to be fully responsible to AGENCY for the acts and omissions of its contractors, subcontractors, consultants and persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by SUBGRANTEE. SUBGRANTEE's obligation to pay its contractors, subcontractors, and consultants is independent of the obligation of DWR to transmit monies to AGENCY. AGENCY has no obligation to transmit monies to any contractor, subcontractor, or consultant of SUBGRANTEE.

15. **Term.** The term of this AGREEMENT shall be the same as, and coincide with, the term of the Grant Agreement, incorporated herein by this reference.

Upon completion of construction or performance of PROJECT COMPONENT or termination of this AGREEMENT, AGENCY shall: 1) disburse to SUBGRANTEE any remaining sums of money in the account approved by DWR for payment to SUBGRANTEE, which have not already been disbursed by AGENCY to SUBGRANTEE, and 2) distribute pro rata refunds to SUBGRANTEE of unexpended administrative cost contributions.

16. **Termination.** This AGREEMENT shall terminate upon the earlier of: (i) written notice from the DWR or AGENCY and SUBGRANTEE of insufficient appropriations and cancellation of the Grant Agreement; (ii) AGENCY's disbursement of all funds for PROJECT COMPONENT pursuant to this AGREEMENT by December 31st, 2022, plus 35 years; or (iii) termination of the AGREEMENT by AGENCY due to breach as set forth below.

Termination for Breach. PARTIES agree that if SUBGRANTEE abandons carrying out PROJECT COMPONENT or fails to cure any breach of this AGREEMENT within 30 days of receipt of Notice of Breach from AGENCY, then AGENCY may, in its sole discretion serve written notice to SUBGRANTEE that AGENCY intends to terminate this AGREEMENT due to SUBGRANTEE's breach in 30 days and, if the breach is not timely and reasonably cured, terminate this AGREEMENT.

17. **Record Retention.**

- a) For a period of five (5) years after completion of PROJECT COMPONENT or as otherwise required by the Grant Agreement, AGENCY shall retain a copy of records of: (i) AGENCY deposits into, and disbursements from, accounts for PROJECT COMPONENT; (ii) requests for payment received from

SUBGRANTEE; and (iii) AGENCY inspection of SUBGRANTEE requests for payment on PROJECT COMPONENT. Upon prior written request from DWR or SUBGRANTEE, AGENCY shall provide DWR or SUBGRANTEE reasonable access to inspect such records on AGENCY premises during normal business hours.

- b) For a period of ten (10) years after completion of PROJECT COMPONENT, SUBGRANTEE shall maintain copies of all financial records related to PROJECT COMPONENT, shall make those records available to AGENCY upon request, and shall provide reports and/or operational data upon request of AGENCY for the purpose of reporting to DWR or other data collection purposes.

18. **Authority.** Each PARTY represents and warrants that each person signing this AGREEMENT on behalf of the PARTY, has legal authority to sign this AGREEMENT and bind that PARTY.

19. **Notices.** Notice pursuant to this AGREEMENT shall be sent by United States Mail and by electronic transmission to the following representatives for the PARTIES.

SUBGRANTEE:

City of Lompoc
100 Civic Center Plaza,
Lompoc, CA 93436
Attn: Steven Valle
(805) 875-8226
s_valle@ci.lompoc.ca.us

AGENCY:

Santa Barbara County Water Agency
130 E Victoria St., Suite 200
Santa Barbara, CA 93101
Attn: Matthew Young
(805) 568-3546
mcyoung@cosbpw.net

PARTIES may change representatives and addresses upon written notice to the other PARTIES.

20. **Law and Venue.** This AGREEMENT is entered into, and shall be construed and interpreted in accordance with the laws of the State of California. Any litigation regarding this AGREEMENT or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

21. **Negotiated Agreement.** This AGREEMENT has been negotiated between the PARTIES and reviewed by their respective Counsel, and shall not be construed against any Party as the drafting party.

22. **Counterparts.** This AGREEMENT will be considered binding and effective when it has been fully executed by PARTIES. This AGREEMENT may be executed in counterpart originals, with all counterparts taken as a whole constituting the complete AGREEMENT.

23. **Headings.** The headings of the sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

IN WITNESS WHEREOF, having read the foregoing and having understood and agreed to the terms of this AGREEMENT, PARTIES voluntarily affix their signatures below.

AGENCY:

SANTA BARBARA COUNTY WATER AGENCY
SCOTT D. MCGOLPIN
PUBLIC WORKS DIRECTOR

By: _____

Date: _____

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: _____
Deputy

APPROVED AS TO FORM:
RAY AROMATORIO, ARM, AIC
RISK MANAGER

By: _____
Risk Management

APPROVED AS TO FORM:
BETSY M. SCHAFFER, CPA
AUDITOR-CONTROLLER

By: _____
Deputy

SUBGRANTEE:

CITY OF LOMPOC

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT 1

**GRANT AGREEMENT BETWEEN THE STATE OF CALIFORNIA
(DEPARTMENT OF WATER RESOURCES) AND
SANTA BARBARA COUNTY WATER AGENCY
AGREEMENT NUMBER 4600014975
PROPOSITION 1 ROUND 2 INTEGRATED REGIONAL WATER MANAGEMENT
(IRWM)
IMPLEMENTATION GRANT**