

**STATE OF CALIFORNIA
THE NATURAL RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES
AGREEMENT BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
THE CITY OF REDLANDS
UNDER THE FLOOD CORRIDOR PROGRAM**

THIS AGREEMENT, made in quadruplicate and, commencing this 5th day of February of 2013, is entered into by and between the Department of Water Resources of the State of California (hereinafter called the State), and The City of Redlands, (hereinafter called the Grantee) for the Opal Basin Improvements and Judson Street Agricultural Preservation Project.

The State and the Grantee agree as follows:

SECTION 1 PURPOSE OF AGREEMENT

This Agreement is made by and between the State to the Grantee to assist in financing a Flood Protection Project pursuant to the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Public Resources Code Section 5096.800 et seq, Division 5, Chapter 1.699, Article 4), specifically Public Resources Code 5096.825.

Grant funds may be used only as provided in this Agreement for such Eligible Project Costs as set forth in the Scope of Work and Budget, copies of which are incorporated herein by this reference and set forth in Exhibit B, Project Location, Exhibit C, Scope of Work and Exhibit D, Budget which describe tasks to be accomplished and costs associated with those tasks under this Agreement.

SECTION 2 TERM OF AGREEMENT

This Agreement shall remain in effect for three (3) years from the date of execution. The date of execution shall be the last date of the required signatures of the parties to the Agreement. Certain activities specified in this Agreement have a different term such as maintenance responsibilities of the grantee which continue in perpetuity and require annual reporting for five years after project completion.

SECTION 3 PROJECT COSTS

The Total Project Costs (identified in Exhibit D) are estimated to be \$5,690,085.00.

SECTION 4 STATE GRANT

Pursuant to the California Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006, and subject to the availability of

funds, including any mandates from the Department of Finance, the Pooled Money Investment Board, or any other State authority, the State will reimburse the Grantee, in accordance with the terms of this Agreement, an amount equal to the Grantee's eligible expenditures for this project not to exceed \$5,000,000.00, as the State Share, as identified in Exhibit D, Budget. The State will not make payments of any kind—advances or reimbursements—until funding is made available by the State Treasurer, after allocation decisions are made by the Pooled Money Investment Board and Department of Finance.

SECTION 5 GRANTEE'S COST SHARE AMOUNT

The Grantee agrees to fund the difference, if any, between the actual Project Cost and the State Grant (Section 4). The rate of payment of State grant funds expressed as a percentage share of the State Grant cannot exceed the rate of payment of expenses by the grantee expressed as a percentage of the grantee's share of project costs without prior State authorization.

SECTION 6 INCORPORATION OF STANDARD TERMS AND GRANTEE COMMITMENTS

In addition to Exhibits B, C, and D, this agreement by this reference incorporates Exhibit A, Standard Terms and Exhibit E, Planned Maintenance Activities. The Grantee accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations and statements made by the Grantee in the Application, documents, amendments and communications filed in support of its request for financing.

SECTION 7 METHOD OF PAYMENT

The Grantee shall submit invoices on a quarterly basis but no more often than monthly for eligible non-capital costs and on an as-needed basis for capital costs. Except for property acquisition payments, all payments will be made to the Grantee. Payments will be made upon receipt of an original invoice by the State of California, Department of Water Resources, 3464 El Camino Avenue, Room 200, Sacramento, CA 95821, to the attention of Amy Young, Project Manager for the State. Invoices should include SAP contract number and work plan element identification. For real property acquisition payments, funds will be made payable to the title company and deposited directly into escrow.

The Grantee shall meet all conditions for disbursement of money under this Agreement, including the provisions of the Conditions for Disbursement which is located in Exhibit A. Failure by Grantee to comply may, at the option of the State, result in termination of the Agreement.

SECTION 8 PROGRESS REPORTS AND STATEMENT OF COSTS

The Grantee shall submit progress reports on a quarterly basis but no more often than monthly, starting with the end of the first complete calendar quarter after date of execution, describing the status of the Project and containing a Statement of Costs to the State. The submittal and approval by the State of these reports is a requirement for continued disbursement of State Grant funds. Progress reports shall summarize the work completed during the reporting period, include a statement of progress toward completion compared to the Project schedule, and provide a comparison of costs to date compared to the approved scope of work and Project budget. Additionally, if the grantee is aware of any anticipated problems, obstacles, or issues that could affect the project budget, schedule, or scope of work, they should be discussed in the progress reports.

SECTION 9 FINAL REPORTS

Upon project completion or termination, the Grantee shall submit a Final Report describing project activities and a report of expenditures (Final Financial Report) for the State's review and comment. The Final Report and Final Financial Report shall both be submitted within sixty (60) days of the project completion or termination. The Final Report shall describe the results of the project's activities, and include photographs of pre-project conditions and of the work completed. The Grantee shall also submit a Post-Completion Annual Report of Maintenance Activities annually for five years following completion of the project, with the first report due 12 months after the project completion date.

For any construction activity undertaken pursuant to and funded by this agreement, upon completion of the project the Grantee shall provide for a final inspection and a written certification by a California Registered Civil Engineer that the project has been completed in accordance with final plans and specifications and any modifications thereto. Such certification shall be submitted to the State with a copy of the final report of project expenditures required in the paragraph below. The Grantee shall keep on file, for the useful life of the project, as built plans and specifications for the project. Such documents shall be made available for inspection by the State upon reasonable notice.

The Final Financial Report documenting total project expenditures shall be submitted by the Grantee at the same time as the Final Report.

SECTION 10 RELATIONSHIPS OF PARTIES

The Grantee, its contractors, subcontractors, and their respective agents and employees required for performing any work under this Agreement shall act in an independent capacity and not as officers, employees, or agents of the State. Grantee is solely responsible for planning, design, construction, maintenance, and operation of the activity undertaken pursuant to and funded by this agreement. Any review or approval by the State is solely for the purpose of proper administration of State funding and shall not be deemed to relieve or restrict Grantee's responsibility for its work.

SECTION 11 PERMITS, LICENSES, APPROVALS AND LEGAL OBLIGATIONS

The Grantee shall be responsible for obtaining any and all permits, licenses and approvals required for performing any work under this Agreement, including those necessary for planning and implementing the Project. The Grantee shall be responsible for complying with all applicable federal, State and local laws, rules or regulations affecting any such work, specifically including, but not limited to, environmental, labor, procurement and safety laws, rules, regulations and ordinances.

Without limiting the foregoing, Grantee shall keep informed of and take all measures necessary to ensure compliance with the California Labor Code requirements, including but not limited to Section 1720 *et seq.* of the California Labor Code regarding public works, limitations on use of volunteer labor (California Labor Code Section 1720.4), labor compliance programs (California Labor Code Section 1771.5), and payment of prevailing wages for work done under this funding agreement.

Work that is subject to the California Environmental Quality Act (CEQA) and funded under this Agreement shall not proceed until documents that satisfy the CEQA process are received by the State Project Manager and the State has completed its CEQA compliance. Work funded under this Agreement that is subject to a CEQA document shall not proceed until and unless approved by the State Project Manager. Such approval is fully discretionary and shall constitute a condition precedent to any work for which it is required. Once CEQA documentation has been completed, the State will consider the environmental documents and decide whether to continue to fund the project or to require changes, alterations or other mitigation.

SECTION 12 GRANTEE'S RESPONSIBILITIES FOR WORK

The Grantee shall be responsible for any and all disputes arising out of its contracts for work on the Project, including but not limited to bid disputes and payment disputes with the Grantee's contractors and subcontractors. The State will not mediate disputes between the Grantee and any other entity concerning responsibility for performance of work.

SECTION 13 PROJECT OFFICIALS AND NOTICES

The State's Program Manager shall be the Chief, Division of Flood Management, Department of Water Resources. The State's Program Manager shall be the State's representative and shall have the authority to make determinations and findings with respect to each controversy arising under or in connection with the interpretation, performance, or payment for work performed under the Funding Agreement. The State's Program Manager may delegate any task to the State's Project Manager.

The Grantee Project Manager shall be the Municipal Utilities & Engineering Director. The Grantee Project Manager shall be the Grantee's representative for the

administration of the Agreement and shall have full authority to act on behalf of the Grantee, including authority to execute all payment requests. All communications given to the Project Manager shall be as binding as if given to the Grantee.

Either party may change its representative upon written notice to the other party. Any notice, demand, request, consent, or approval that either party desires or is required to give to the other party under this Funding Agreement shall be in writing to the Project Manager.

Notices required to be given to the State in writing by the Grantee under this Agreement shall be sent to:

Amy Young
State of California
Department of Water Resources
Flood Corridor Program
3464 El Camino Avenue, Room 200
Sacramento, CA 95821

Notices required to be given to the Grantee in writing by the State under this Agreement shall be sent to:

Fred Mousavipour
Municipal Utilities & Engineering Director
City of Redlands
35 Cajon Street, Suite 15A
Redlands, CA 92373

A change of address for delivery or notice may be made by either party by written notice of such change of address to the other party.

Notices may be sent by any of the following means: delivery in person, by certified U.S. Mail, postage prepaid, by "overnight" delivery service or, electronic transmission followed by submittal of a hard copy.

SECTION 14 MAINTENANCE OF PROPERTY OWNED IN FEE

Within their respective ownership of land rights, the Grantee agrees to use, manage, and maintain the property acquired, developed, rehabilitated, or restored with the grant funds provided in this Agreement consistent with the purposes of the program and is required to continue in perpetuity or until deemed no longer necessary by the State. Specific maintenance activities are outlined in Exhibit E, Planned Maintenance Activities. The Grantee or their successors may, with the approval of the State, transfer this responsibility to use, manage, and maintain the property acquired as discussed in Exhibit A, Standard Terms: Easements. Such title transfer will occur in a way that binds

the new owner to the same obligations.

SECTION 15 PROPERTY RIGHTS ACQUISITIONS

The Grantee is coordinating the acquisition of real property rights (Exhibit B attached hereto) for the purpose of the protection, restoration, and enhancement of the flood corridor by combining an effective and low-cost means of flood control protection with the preservation and enhancement of natural environmental values. The acquisition of any real property interest in these properties with State funds must comply with the following:

- A. The Grantee must provide escrow documents and information listed in Exhibit F, Information Needed for Escrow Processing and Closure, including a preliminary title report, vesting documents, and a fully conformed appraisal report to the State. Appraisals must be prepared and signed by a qualified general appraiser, who is licensed by the California Department of Real Estate Appraisers and demonstrates compliance with the Uniform Standards for Professional Appraisal Practices. Any and all appraisal reports shall be submitted to the State for approval prior to disbursement of funds for the acquisition. For low value property interests, the State, in its sole discretion, may waive any of the foregoing submittal requirements.
- B. The property rights shall be acquired from a willing seller as promulgated in Water Code Section 79037 (b) (4), Division 26, Chapter 5, Article 2.5, and in compliance with current laws governing acquisition of properties by public agencies.
- C. The Grantee shall provide sufficient notice to adjacent landowners and other members of the public to enable public input on interests that may be affected by the acquisition and changes in land use.
- D. The Grantee shall use, manage, and maintain the property in a manner consistent with the purpose of the acquisition until the State determines that maintenance is no longer necessary. The Grantee further assumes all management and maintenance costs associated with the acquisition, including the costs of ordinary repairs and replacements of a recurring nature, and costs of enforcement of regulations. The State shall not be liable for any cost of such management or maintenance. The Grantee will, prior to the acquisition of the property identified in Exhibit B - Project Location, develop a monitoring and maintenance plan and determine who will be responsible for it and submit it to the State for approval.
- E. The Grantee shall disclose all riparian water rights that it is aware of that would be affected by a real property acquisition and propose appropriate treatment of such rights.

- F. Funds provided by the State for real property acquisitions shall be deposited by the State with an escrow holder acceptable to the State and with escrow instructions regarding funding and disbursement to be approved by the State. If the escrow does not close by the date set forth in the State's escrow instructions, or such other date as may be agreed to in writing by the parties, the funds provided by the State shall be returned to the State.
- G. The Grantee shall supply a copy of any recorded vesting documents to the State after close of escrow.
- H. Interim financial reports documenting incurred eligible costs shall be submitted by the Grantee within 60 days of completion of the acquisition of real property.

IN WITNESS HEREOF, the following authorized representatives have executed this Agreement as of the date first above written and approved as to Legal form and sufficiency.

CITY OF REDLANDS

By: Pete Aguilar
Pete Aguilar, Mayor

Attest: Sam Irwin
Sam Irwin, City Clerk

Date: 2/5/13

STATE OF CALIFORNIA, DEPARTMENT OF WATER RESOURCES

By: _____
Keith E. Swanson, Chief, Division of Flood Management

Date: _____

Approved as to Legal Form and Sufficiency

By: _____
Acting Assistant Chief Counsel

Date: _____

Attachments

List of Exhibits:

Exhibit A – Standard Terms

Exhibit B – Project Location

Exhibit C – Scope of Work

Exhibit D – Budget

Exhibit E – Planned Maintenance Activities

Exhibit F – Information Necessary for Escrow Processing and Closure

STANDARD TERMS

1. ACCOUNTING AND DEPOSIT OF GRANT DISBURSEMENT:

- a) Separate Accounting of State Grant Disbursements and Interest Records: The Grantee shall account for the money disbursed pursuant to this Agreement separately from all other Grantee's funds. The Grantee shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. The Grantee shall keep complete and accurate records of all receipts, disbursements, and interest earned on expenditures of such funds. The Grantee shall require its contractors or subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by the State at any and all reasonable times.
- b) Disposition of Money Disbursed: All money disbursed pursuant to this Agreement shall be deposited, administered, and accounted for pursuant to the provisions of applicable law.
- c) Remittance of Unexpended Funds: The Grantee, within a period of sixty (60) days from the final disbursement from the State to the Grantee of State Grant funds, shall remit to the State any unexpended funds that were disbursed to the Grantee under this Agreement and were not needed to pay Eligible Project Costs.
- d) Interim and Final Audits: The State reserves the right to conduct an audit at any time between the execution of this Agreement and the completion of the Project, with the costs of such audit borne by the State. After completion of the Project, the State may require the Grantee to conduct a final audit, at the State's expense.

Pursuant to Government Code Section 8546.7, the contracting parties shall be subject to the examination and audit of the State for a period of three (3) years after project completion. All Grantee's records and those of the Grantee's subcontractors related to this Agreement shall be retained for at least three (3) years after Project completion.

- 2. **ACKNOWLEDGEMENT OF CREDIT:** The Grantee shall include appropriate acknowledgement of credit to the State and to all cost-sharing partners for their support when promoting the Project, erecting signs at the project site, or using any data and/or information developed under the Agreement.
- 3. **AMENDMENT:** This Agreement may be amended at any time by mutual agreement of the parties, except insofar as any proposed amendments are in

any way contrary to applicable law. Requests by the Grantee for amendments must be in writing stating the amendment request and the reason for the request.

4. **AMERICANS WITH DISABILITIES ACT:** By signing this Agreement, Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.
5. **ANTITRUST CLAIMS:** Grantee shall comply with all applicable laws and regulations regarding securing competitive bids and undertaking competitive negotiations in Grantee's contracts with other entities for acquisition of goods, and services and construction of public works with funds provided by the State under this Agreement.
6. **APPROVAL:** This Agreement is of no force or effect until signed by all parties to the agreement. Grantee may not submit invoices or receive payment until has all required signatures have been obtained.
7. **AVAILABILITY OF FUNDS:** Work to be performed under this Agreement is subject to availability of funds through the State's normal budget process.
8. **CALIFORNIA CONSERVATION CORPS:** As required in Water Code Section 79038(b), Grantee shall examine the feasibility of using the California Conservation Corps or community conservation corps to accomplish the habitat restoration, enhancement and protection activities listed in the Scope of Work (Exhibit C), and shall use the services of one of these organizations whenever feasible.
9. **CLAIMS DISPUTE:** Any claim that the Grantee may have regarding the performance of this Agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Project Manager, Department of Water Resources, within thirty (30) days of the Grantee's knowledge of the claim. Project Manager and Grantee shall then attempt to negotiate a resolution of such claim and process an amendment to this Agreement to implement the terms of any such resolution.
10. **COMPETITIVE BIDDING AND PROCUREMENTS:** Grantee shall comply with all applicable laws and regulations securing competitive bids and undertaking competitive negotiations in Grantee's contracts with other entities for acquisition of goods and services and construction of public works with funds provided by State under this Agreement.

11. **CONDITIONS FOR DISBURSEMENT:** The State shall have no obligation to disburse money under this Agreement unless and until the Grantee has satisfied the State that the disbursement is in accordance with the requirements of the legislation creating the funding source for the grant funds. Before engaging in site modifications to be paid for from State funds, the Grantee must complete the following:

- a) For Construction Projects, the Grantee must submit to the State, final plans and specifications certified by a California Registered Civil Engineer or equivalent documentation as to compliance with the approved Project.
- b) The Grantee must submit a written statement by an authorized representative that it has obtained all necessary permits, easements, rights-of-way and approvals as may be required by other State, federal, and/or local agencies, as specified in Section 11 of this Agreement.
- c) The Grantee must demonstrate compliance with the California Environmental Quality Act and if applicable the National Environmental Policy Act by submitting copies of any environmental documents, including environmental impact reports, environmental impact statements, negative declarations, mitigation agreements, legal notices and environmental permits as may be required prior to modifying the Project site.
- d) The Grantee must demonstrate continuing availability of sufficient funds to complete the Project.
- e) The Grantee shall develop, and submit for State approval, a plan to minimize the impacts to adjacent landowners (California Water Code Section 79041, Division 26, Chapter 5, Article 2.5). This plan may require completion of a hydrologic and hydraulic study, and if so the specifications will be included in Exhibit C, the project Scope of Work.

12. **CONFLICT OF INTEREST:**

- a) Current State Employees:
No state officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

No state officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

- b) Former State Employees:

For the two (2) year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the Agreement while employed in any capacity by any state agency.

For the twelve (12)-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed Agreement within the twelve (12)-month period prior to his or her leaving state service.

- c) City/County/Non Profit Employees:
No employee, officer, employer or agency of the City/County/Non Profit shall participate in the selection or in the award or administration of a contract supported by State Funds if a conflict of interest, real or apparent, would be involved. The City/County/Non Profit shall comply with all applicable laws on conflict of interest including, but not limited to the following: Public Contract Code (PCC) Sections 10335.5 et seq., PCC Sections 10365.5 et seq., PCC Sections 10410 et seq., and Government Code Sections 1090 et seq., and 81000 et seq.

13. **DRUG-FREE WORKPLACE CERTIFICATION:** By signing this Agreement, the Grantee hereby certifies under penalty of perjury under the laws of the State of California that the Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a) Publish a statement notifying employees, contractors and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors or subcontractors for violations.
- b) Establish a Drug-Free Awareness Program to inform employees, contractors and subcontractors about all of the following:
1. The dangers of drug abuse in the workplace,
 2. The Grantee's policy of maintaining a drug-free workplace,
 3. Any available counseling, rehabilitation and employee assistance programs, and
 4. Penalties that may be imposed upon employees, contractors or subcontractors for drug abuse violations.
- c) Every employee, contractor and subcontractor who works under this Agreement:

1. Will receive a copy of the Grantee's drug-free policy statement, and
2. Will agree to abide by terms of the Grantee's statement as a condition of employment, contract or subcontract.

14. **EASEMENTS:** Where the Grantee acquires property in fee title or funds improvements to property already owned in fee by the Grantee using grant funds provided through this Agreement, or proposes that property be conserved as open space and such conserved property is used in determining the benefits score for the project, an appropriate easement or other title restriction providing for floodplain preservation and agricultural and/or wildlife habitat conservation for the subject property in perpetuity, approved by the State, shall be conveyed to a regulatory or trustee agency or conservation group acceptable to the State. Any easement or other title restriction applied to any portion of the project are as part of the project must be in first position ahead of any recorded mortgage or lien on the property unless this requirement is waived by the State.

Where the Grantee acquires an easement under this Agreement, the grantee agrees to monitor and enforce the terms of the easement, unless the easement is subsequently transferred to another land management or conservation organization or entity with State permission, at which time monitoring and enforcement responsibilities will transfer to new easement owner.

Failure to provide an easement acceptable to the State can result in termination of this Agreement.

15. **ELIGIBLE PROJECT COSTS:** Grantee shall apply State Grant funds received only to Eligible Project Costs, as identified in Exhibit D - Budget.
16. **GOVERNING LAW:** This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.
17. **INDEMNIFICATION:** Grantee shall indemnify and hold and save the State, 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 the Project and this Agreement, including, but not limited to any claims or damages arising from the planning, design, construction, maintenance and/or operation of levee rehabilitation measures for this Project and any breach of this Agreement. Grantee shall require its contractors to name the State, its officers, agents, and employees as additional insureds on their liability insurance for activities undertaken pursuant to this Agreement.
18. **INSPECTIONS OF PROJECT BY STATE:** The State shall have the right to inspect the work being performed at any and all reasonable times during the term of the Agreement. This right shall extend to any subcontracts, and the

Grantee shall include provisions ensuring such access in all its contracts or subcontracts entered into pursuant to its Agreement with the State.

19. **INSPECTIONS OF BOOKS, RECORDS AND REPORTS:** During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this Funding Agreement or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Funding Agreement. Failure or refusal by Grantee to comply with this provision shall be considered a breach of this Funding Agreement, and the State may withhold disbursements to Grantee or take any other action it deems necessary to protect its interests as provided in the Funding Agreement.
20. **LABOR COMPLIANCE PLAN:** Prior to awarding a contract for public works projects funded in whole or in part from Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, or any other source of funding so requiring, the Grantee shall comply with Public Resources Code Section 75075, which requires adoption and enforcement of a labor compliance program pursuant to subdivision (b) of Labor Code Section 1771.5 for application to the funded public works project. At the State's request, Grantee must promptly submit written evidence of its compliance with Labor Compliance Program requirements.
21. **NONDISCRIMINATION:** During the performance of this Agreement, the Grantee, its contractors, and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Grantee and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Govt. Code § 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et. seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code § 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Grantee and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

Grantee shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

22. **PROHIBITION AGAINST DISPOSAL OF PROPERTY WITHOUT STATE PERMISSION:** The Grantee shall not sell, abandon, lease, transfer, exchange, mortgage, hypothecate, or encumber in any manner whatsoever all or any portion of any real or other property necessarily connected or used in conjunction with the Project, without prior permission of the State. The Grantee shall not take any action, including but not limited to actions relating to user fees, charges, and assessments that could adversely affect the ability of the Grantee to meet its obligations under this Agreement, without prior written permission of the State. The State may require that the proceeds from the disposition of any real or personal property be remitted to the State, up to the value of the State funds disbursed to the Grantee for purchase of or improvements to the property under this Agreement.
23. **REIMBURSEMENT:** If applicable, travel and per diem expenses to be reimbursed under this Agreement shall be the same rates the State provides for unrepresented employees in accordance with the provisions of Title 2, Chapter 3, of the California Code of Regulations.
24. **SEVERABILITY:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
25. **SUCCESSOR AND ASSIGNS:** This Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties hereto. No assignment or transfer of this Agreement or any part thereof, rights hereunder, or interest herein by the Grantee shall be valid unless and until it is approved by the State and made subject to such reasonable terms and conditions as the State may impose.
26. **TERMINATION WITHOUT CAUSE:** The State may terminate this Agreement without cause on thirty (30) days advance written notice. The Grantee shall be reimbursed for all reasonable expenses incurred up to the date of termination.
27. **TERMINATION FOR CAUSE:** The State may terminate this Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Agreement at the time and in the manner herein provided including but not limited to reasons of default under Standard Term 28 – Termination By Grantee.
28. **TERMINATION BY GRANTEE:** Subject to State approval which may be reasonably withheld, Grantee may terminate this Agreement and be relieved of contractual obligations. In doing so, Grantee must provide a reason(s) for termination. Grantee must submit all progress reports summarizing

accomplishments up until termination date.

29. **THIRD PARTY BENEFICIARIES:** The parties to this Agreement do not intend to create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or any duty, covenant, obligation or understanding established herein.
30. **TIMELINESS:** Time is of the essence in this Agreement.
31. **WITHHOLDING OF GRANT FUNDS BY STATE:**
- a) **Withholding Clause:** The State, at its discretion, may withhold ten percent (10%) of the funds requested by the Grantee for reimbursement of Eligible Project Costs until applicable milestones are completed or until the Project is completed and Final Report is received. Withheld funds may be released upon completion of milestones identified in Exhibit C, the project Scope of Work.
 - b) **Additional Conditions for Withholding:** If the State determines that the Project is not being completed substantially in accordance with the provisions of this Agreement or that the Grantee has failed in any other respect to comply substantially with the provisions of this Agreement, and if the Grantee does not remedy any such failure to the State's satisfaction, the State may withhold from the Grantee all or any portion of the State Grant commitment and take any other action that it deems necessary to protect its interests.
32. **WORKERS' COMPENSATION:** The Grantee affirms that it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self insurance in accordance with the provisions of that code, and the Grantee affirms that it will comply with such provisions before commencing the performance of the work under this Agreement and will make its contractors and subcontractors aware of this provision.

EXHIBIT B
City of Redlands
Opal Basin Improvements and Judson Street Agricultural Preservation Project
Project Location

APN: 0168-161-07, 0168-161-08

Legal Descriptions Citrus Preservation Sites

THE WEST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 1 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF REDLANDS, ACCORDING TO GOVERNMENT SURVEY.

EXCEPT THOSE PORTIONS AS CONVEYED TO THE CITY OF REDLANDS BY DEED RECORDED MAY 24, 1988 AS INSTRUMENT NO. 163128, 163129, 163130, 163131.

THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 1 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF REDLANDS, ACCORDING TO GOVERNMENT SURVEY.

EXCEPT THOSE PORTIONS AS CONVEYED TO THE CITY OF REDLANDS BY DEED RECORDED MAY 24, 1988 AS INSTRUMENT NO. 163128, 163129, 163130, 163131.

APN: 0168-121-02

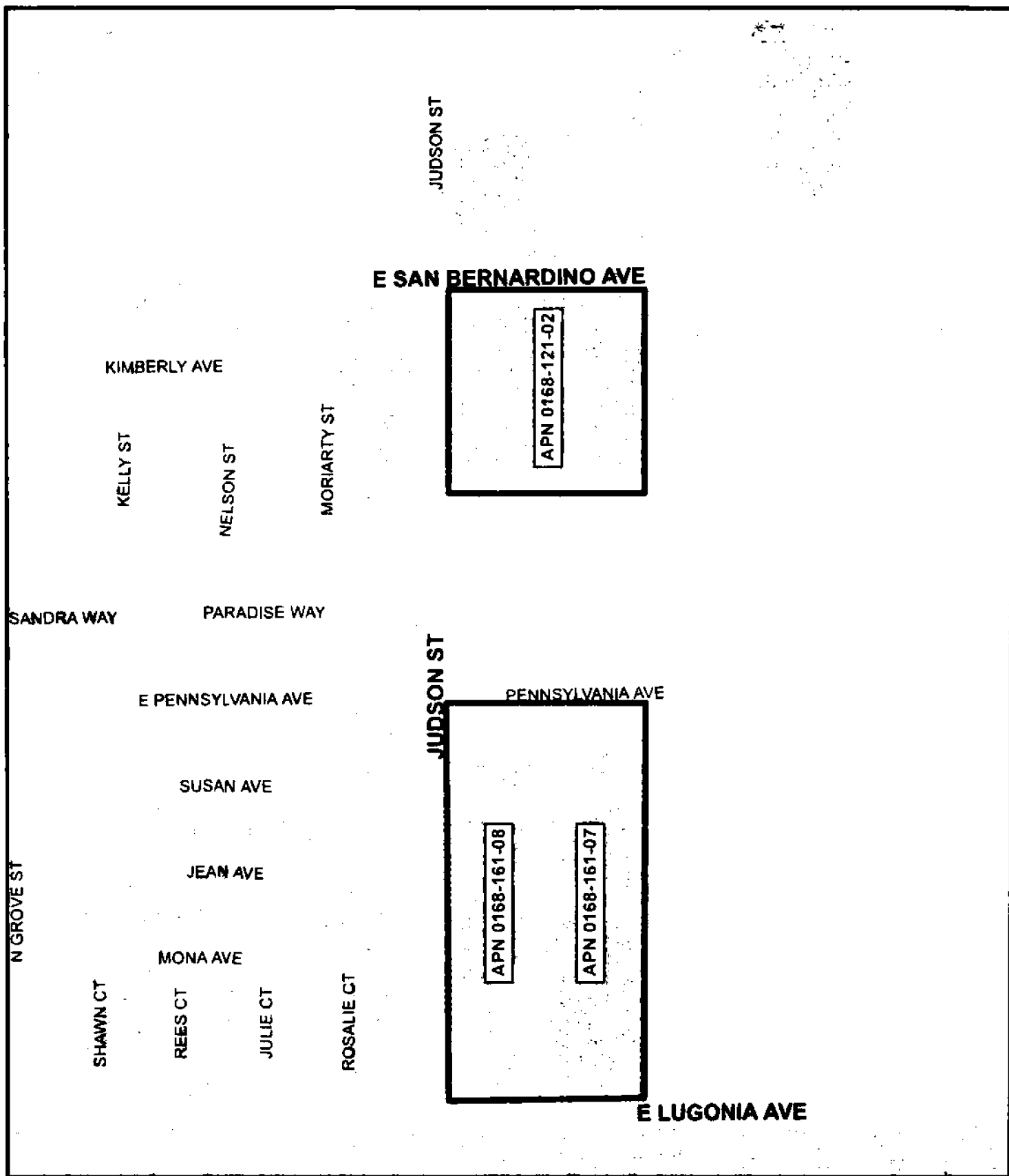
Legal Description Citrus Preservation Site

THE NORTH ONE-HALF OF THE WEST ONE-HALF OF THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 24, IN TOWNSHIP 1 SOUTH, RANGE 3 WEST, OF THE SAN BERNARDINO MERIDIAN, IN THE CITY OF REDLANDS, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE FEBRUARY 24, 1869, BEING ALSO A PORTION OF LOTS 38 AND 39 OF TOLLES LUGONIA DRAWING OF APRIL 27, 1887. EXCEPT THEREFROM THE INTEREST IN THE NORTH 33 FEET CONVEYED TO THE CITY OF REDLANDS, FOR STREET PURPOSED BY DEED RECORDED JANUARY 26, 1924 IN BOOK 825, PAGE 372 OF OFFICIAL RECORDS.

APN: 0299-041-01

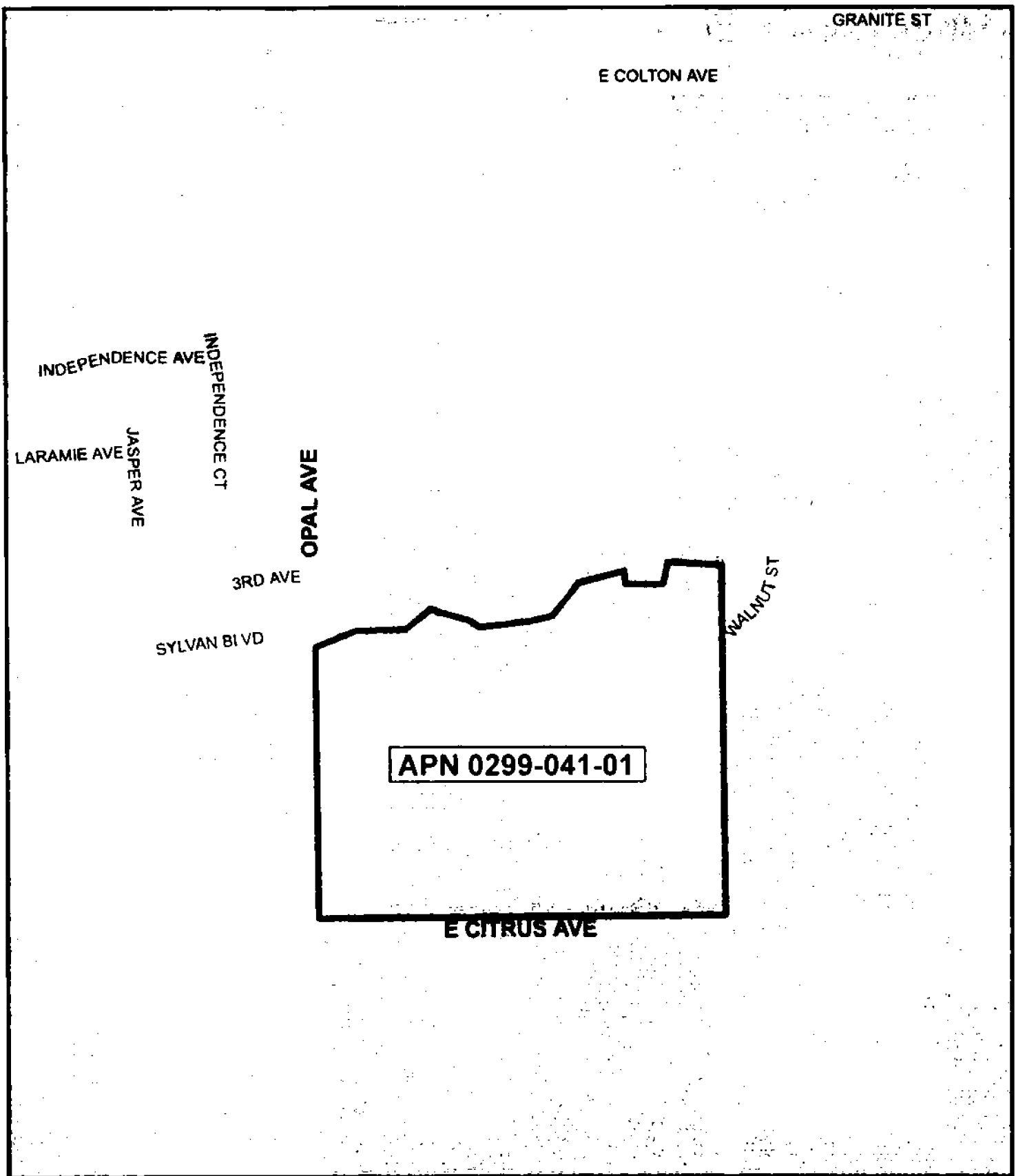
Legal Description Basin Site

R S B PTN LOT 40 BLK 77 LYING S OF FOLL DESC L1 BEG AT INTERSECTION OF C/L MILL CREEK ZANJA AND E L1 SD LOT 40 TH N 86 DEG 10 M1N W 176.4 FT TH S 10 DEG 43 M1N W 69 FT TH N 89 DEG 07 M1N W 115 FT TH N 0 DEG 32 M1N W 40 FT TH S 75 DEG 08 M1N W 150 FT TH S 42 DEG 22 M1N W 156 FT TH S 85 DEG 56 M1N W 138.2 FT TH W 104.52 FT TH N 8 FT TO PT 5 FT N OF N BANK OF MILL CREEK ZANJA TH N 70 DEG 45 M1N W 127 FT TH S 53 DEG 51 M1N W 96.6 FT TH S 83 DEG 54 M1N W 178.8 FT TH S 68 DEG W 130.7 FT TO PT ON W L1 SD LOT 40 30.6 AC



AGRICULTURAL PRESERVE LOCATION MAP





OPAL BASIN PROJECT LOCATION MAP



September 24, 2012

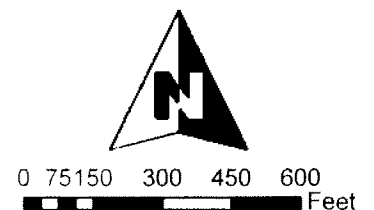


EXHIBIT C
City of Redlands
Opal Basin Improvements and Judson Street Agricultural Preserve Project
Scope of Work

Project Goals and Objectives The project desires to construct flood control and aquifer recharge facilities at the Northeast corner of Opal and Citrus Avenues together with improvements establishing approximately an equivalent area for citrus preservation in perpetuity at existing orchards located along the East side of Judson Street between Lugonia and San Bernardino Avenues.

The basin will be more than 600 acre-feet in size providing for 485 acre-feet of flood control storage attenuation and over 100 acre-feet of aquifer recharge storage. The Project will enhance flood protection by reducing damages that occur during severe storm events. Tax payers will benefit from the project because when these events occur, FEMA and OES program contribute funds for these facilities.

The project advances program goals by improved flood protection, enhanced water conservation, and agricultural preservation. The City is acquiring property from a willing seller to enhance flood control and is preserving agriculture land for historic citrus uses.

Project Description The City of Redlands proposes to construct flood control and aquifer recharge facilities at the Northeast corner of Opal and Citrus Avenues together with improvements establishing approximately an equivalent area for citrus preservation in perpetuity at existing orchards located along the East side of Judson Street between Lugonia and San Bernardino Avenues.

The flood control facilities include excavation of earth and placement of a jurisdiction berm together with construction of inlet and outlet facilities. In addition, the project will include a provision for hiking trails along the Zanja and around the facilities. The basin will be more than 600 acre-feet in size providing for 485 acre-feet of flood control storage attenuation and over 100 acre-feet of aquifer recharge storage. Inlet facilities will convey peak storm volumes to basin. These facilities include diversion structures, conveyance pipes, and energy dissipaters. Outlet facilities will release waters back to the existing channel through conveyance pipes and a structural spillway.

The agricultural component of the project will include preservation and maintenance of existing citrus orchards that are currently in poor condition. The City will perform or contract with private parties that currently operate similar groves including all marketing activities. The City has already purchased the agricultural grove sites and has begun contract negotiations with the private parties to place an easement over the properties for their agricultural uses. The contract will contain provisions intent on perpetuating the agricultural facilities in perpetuity.

Mill/Mission Creek/Zanja Channel is an integral storm water drainage facility. The Zanja channel is an historic ditch constructed by Native Americans over 100 years ago to provide

irrigation to farmlands and orchards. Clearly, the system was not designed to accommodate and convey storm events. During storms, the channel experiences significant flooding and damage along the historic channel. Moreover, when this system confluences with the Redlands Boulevard Storm Drain system east of downtown, significant flooding occurs to critical facilities in the downtown area.

The project will intercept peak flow from the Zanja system and tributary and retain or detain this water for recharge effectively reducing peak flow to downstream area, in particular, Downtown Redlands. The flood inundation area is heavily populated, encompasses the City's primary business district and the University of Redlands campus. The project will reduce flood storm damage, improve public safety and project economic viability. In addition to flood control, the project will enhance local water conservation. The basin will recharge high quality water to supplement local water supplies reducing the regions dependence on imported water. Today these flows are lost to the Santa Ana River and ultimately the Pacific Ocean.

Tasks

Task 1 – Administration

Subtask 1.1 Construction Administration

1.1.1 - Preconstruction Meeting

Hold a pre-construction meeting with Contractor, City, all affected utility companies and agencies, State representatives, construction manager and inspector to review project requirements prior to construction and obtain material submittals and a proposed project schedule.

1.1.2 - Material Submittals

Review comment and/or approve all required material submittals to ensure project is constructed in accordance with the plans and specifications.

1.1.3 - Construction Management

Perform construction management services, weekly progress meetings, progress payment preparation, coordination with the inspector, extra work review and final close out.

1.1.4 - Construction Staking

Perform construction staking at offsets and intervals required to construct the project in accordance with the project plans and specifications.

1.1.5 - Materials Testing

Perform materials testing and compaction testing services to ensure the project is constructed in accordance with the project plans and specifications.

1.1.6 - Construction Inspection

Perform inspection services during the construction operations to ensure the project is constructed in accordance with the project plans and specifications.

1.1.7 - Grant Funding Invoicing/ Closeout

Coordinate and correspond with the State for project updates, reports, reimbursement and final closeout reporting.

1.1.8 - Record Drawings

Prepare final as-built drawings to include any changes made in the field during project construction.

Subtask 1.2 City Project Management

1.2.1 The City estimates 3% of costs to cover general project management

Task 2- Construction

Subtask 2.1 Design, Permitting, Bidding

2.1.1 - Records Research

Research all existing utility and survey information within the project area assist with accurate base drawing preparation.

2.1.2 - CEQA Compliance

Prepare initial study documentation and determine project environmental qualification in accordance with CEQA regulations. Environmental permit applications will be started at this point.

2.1.3 - Preliminary Hydrology and Hydraulic Analysis

Prepare hydrology study of the tributary drainage area to determine storm frequency design flow rates for basin sizing. Perform hydraulic analysis on basin and drain pipe sizing and routing.

2.1.4 - Design Survey

Perform topographic and boundary survey to determine existing property Limits and topographic features for preparation of base construction drawings.

2.1.5 - Base Construction Drawings

Prepare base construction drawings utilizing all utility records collected and topographic information collected during the design survey to be used for design drawing preparation.

2.1.6 - Utility Coordination

Coordinate with all affected utility agencies for relocation, abandonment or construction requirements.

2.1.7 - 50% Design

Prepare preliminary construction drawings and specifications for grading of basin and channel, storm drain piping, headwalls and structures utilizing the sizing information determined in the hydrology and hydraulic report. Documents will be submitted to the City for review. Permits applications from appropriate agencies will be started at this point.

2.1.8 - Design Review

Comments from City, State and appropriate agencies will be reviewed for completion of the construction documents.

2.1.9 - Final Hydrology and Hydraulic Analysis

Final basin sizing and routing will be completed based on the actual design geometrics determined in the 50% design phase. All calculations will be rerun and finalized to verify hydraulic efficiencies.

2.1.10 – Division of Safety of Dams (DSOD) Coordination

Construction design documents will be provided to DSOD for berm grading and approval.

2.1.11 - 75% Design

Design documents will be updated based on comments received from City, State and appropriate agencies. Profiles will be added to the project plans and specifications will be amended to include any comments or regulations received from permitting agencies. Documents will be submitted to the City for review.

2.1.12 - Design Review

Comments from City, State and appropriate agencies will be reviewed for completion of the construction documents.

2.1.13 - 90% Design

Design documents will be amended based on comments received from City, State and appropriate permitting agencies. Documents will be submitted to the City for review.

2.1.14 - Design Review

Comments from City, State and appropriate agencies will be reviewed for completion of the construction documents.

2.1.15 - 100% Plans and Specifications

Design documents will be amended based on comments received from City, State and appropriate permitting agencies. Final signed documents will be submitted to the City and State for final approval and bidding.

2.1.16 -Prepare all required applications, forms and exhibits to obtain required approvals and/or permits. Permits may include the following: San Bernardino County Permit, State of California DSOD Permit, US Army Corps 404 Permit, Regional Water Quality Control Board Certification, California Department of Fish and Game Streambed Alteration Agreement, and Metropolitan Water District Permit.

2.1.17 - Advertise Bids

Advertise bid documents in accordance with City and State regulations to obtain multiple Contractor bids for review and approval to the lowest qualified responsive bidder.

2.1.18 - Bid Review and Award Preparation

Review all bids for accuracy to determine the lowest qualified bidder for award of the contract. Bids will also be sent to the State for review and approval prior to award.

2.1.19 - Council Award

Prepare council agenda report recommending the contract for award.

2.1.20 - Contract Execution

Prepare contract for execution with the Contractor.

Task 3 Real Estate

Subtask 3.1 Land Acquisition

- 3.1.1 Complete an appraisal of the Opal Basin site, submit appraisal to DWR for review
- 3.1.2 Acquire and place easement on Opal Basin property
- 3.1.3 Place permanent agricultural easement on citrus grove properties

Deliverables

- Hydrologic and Hydraulic Study
- California Environmental Quality Act documentation and any required permits
- Plan to Minimize Impacts to Adjacent Property Owners
- Title Report
- Phase environmental assessment 1Report
- Escrow Instructions
- Quarterly Progress Reports
- Engineering documentation (Plans, Specifications, Estimates, As-Builts)
- Programmatic Final Report
- Final Financial Summary Report

Benefits

Flood Control

Aquifer Recharge

Water Purification

Agricultural Protection

City of Redlands Opal Basin Improvements and Judson Street Agricultural Preservation Project Schedule

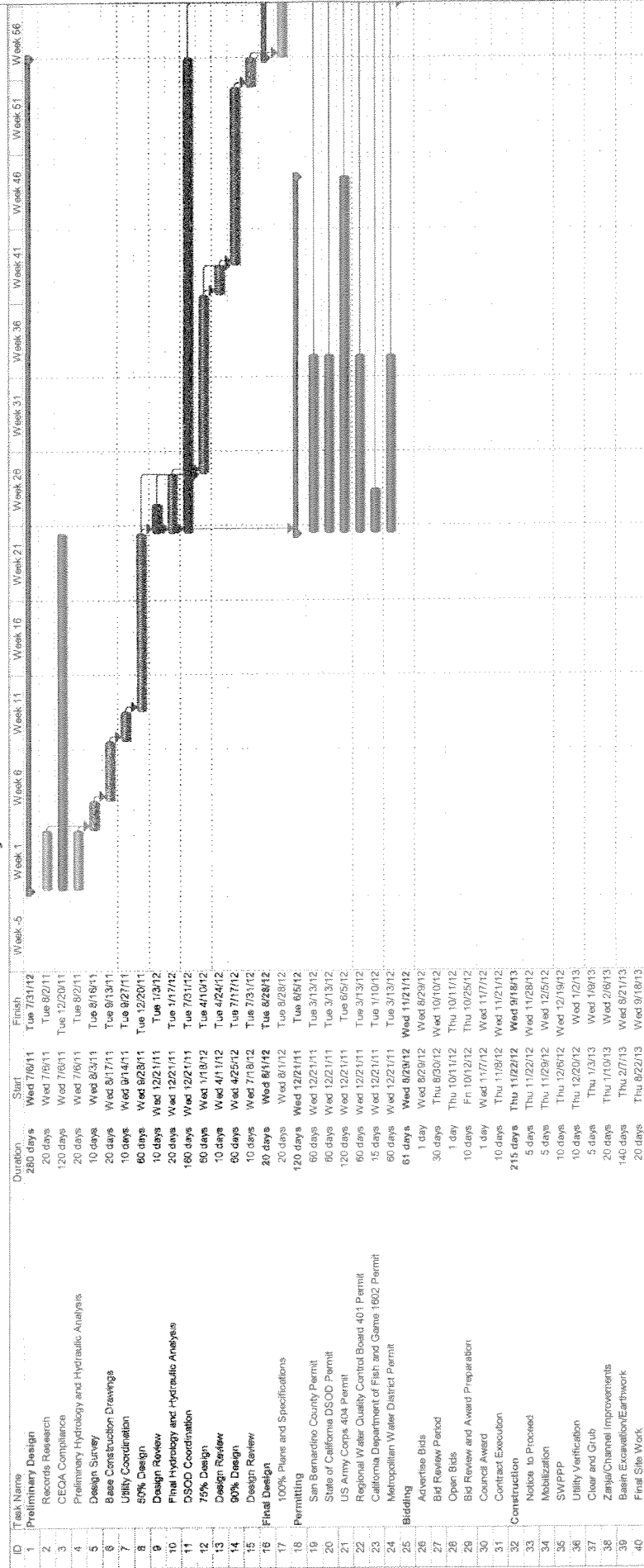


EXHIBIT D
City of Redlands
Opal Basin Improvements and Judson Street Agricultural Preserve Project
Budget

Opal Basin Budget	DWR Cost Share	Redlands Cost Share	TOTAL
Task 1 Admin			
1.1 Construction Admin		357,000	
1.2 City Project Management		107,085	
SUB TOTAL		464,085	464,085
Task 2 Construction			
2.1 Design, Permitting, Bidding		206,500	
2.2 Construct Detention Basin	3,245,000		
SUB TOTAL	3,245,000	206,500	3,451,500
Task 3 Real Estate			
3.1 Land Acquisition	1,450,000		
SUB TOTAL	1,450,000		1,450,000
Task 4 Contingency	305,000	19,500	324,500
TOTAL	5,000,000	690,085	5,690,085

Exhibit E
City of Redlands
Opal Basin Improvements and Judson Street Agricultural Preservation Project
Planned Maintenance Activities

The City's Quality of Life staff will maintain the basin. The maintenance will include annual disposal of sediment and debris accumulated on the basin in addition to cleaning of conveyance facilities. Cost associated with facilities maintenance will be included in the City's Quality of Life annual budget.

The agricultural sites will be maintained by a private party contractually obligated to properly maintain the historic citrus groves in perpetuity. The City currently contracts with a local private party who performs all farming and maintenance associated with the citrus groves. That operation is run through the City's Quality of Life Department.

EXHIBIT F
City of Redlands
Opal Basin Improvements and Judson Street Agricultural Preserve Project
Information Needed for Escrow Processing and Closure

Name and Address of Title Company Handling the Escrow:

Escrow Number

Name of Escrow Officer

Escrow Officer's Phone Number

Dollar Amount Needed to Close Escrow

Legal Description of Property Being Acquired

Assessor's Parcel Number(s) of Property Being Acquired

Copy of Title Insurance Report

Entity Taking Title as Named Insured on Title Insurance Policy

Copy of Escrow Instructions in Draft Form Prior to Recording for Review Purposes

Copy of Final Escrow Instructions

Verification that all Encumbrances (Liens, Back Taxes, and Similar Obligations) have been Cleared Prior to Recording the Deed to Transfer Title

Copy of Deed For Review Purposes Prior to Recording

Copy of Deed as Recorded in County Recorder's Office

Copy of Escrow Closure Notice