

Contract Summary Form:

Contract Number: BC-13-047

Complete data below, print, obtain signature of authorized departmental representative, and submit this form (and attachments) to the Clerk of the Board (>\$100,000). If less than \$100,000, submit a purchasing requisition to the Purchasing Division of General Services. See "Online Purchasing Manual" under "General Services", "Purchasing", "Policies and Procedures. "See also "Contracts for Services" policy. Form not applicable to revenue contracts.

- D1. Fiscal Year : FY 12-13
D2. Budget Unit Number (plus -Ship/-Bill codes in paren's) : 054
D3. Requisition Number
D4. Department Name : Water Agency
D5. Contact Person : Matt Naftaly
D6. Phone : 3542

- K1. Contract Type (check one): [] Personal Service [] Capital Project/Construction
K2. Brief Summary of Contract Description/Purpose : pass through agreement for City of Goleta to receive Prop 84 Implementation Round 1 funding from DWR (San Jose Capacity Improvement & Fish Passage Project)

- K3. Original Contract Amount : \$1,202,428
K4. Contract Begin Date : 8/14/12
K5. Original Contract End Date : 10/15/15 plus 15 years

K6. Amendment History (leave blank if no prior amendments):
Table with columns: Seq#, EffectiveDate, ThisAmndtAmt, CumAmndtToDate, NewTotalAmt, NewEndDate, Purpose (2-4 words)

K7. Department Project Number

- B1. Is this a Board Contract? (Yes/No) : Yes
B2. Number of Workers Displaced (if any) : N/A
B3. Number of Competitive Bids (if any) : N/A
B4. Lowest Bid Amount (if bid) : \$
B5. If Board waived bids, show Agenda Date
B6. ... and Agenda Item Number : #
B7. Boilerplate Contract Text Unaffected? (Yes / or cite ¶¶) :

- F1. Encumbrance Transaction Code : 1701
F2. Current Year Encumbrance Amount : \$
F3. Fund Number : 3050
F4. Department Number : 054
F5. Division Number (if applicable) : 07
F6. Account Number : 7668
F7. Cost Center number (if applicable)
F8. Payment Terms : Net 30

- V1. Vendor Numbers (A=uditor; P=urchasing) : A-447330
V2. Payee/Contractor Name : City of Goleta
V3. Mailing Address : 130 Cremona Drive, Suite B
V4. City State (two-letter) Zip (include +4 if known) : Goleta, CA 93117
V5. Telephone Number : 805.961-7500
V6. Contractor's Federal Tax ID Number (EIN or SSN)
V7. Contact Person : Rosemarie Gaglione
V8. Workers Comp Insurance Expiration Date
V9. Liability Insurance Expiration Date[s] (G=enl; P=rofl)
V10. Professional License Number : #
V11. Verified by (name of County staff)
V12. Company Type (Check one): [] Individual [] Sole Proprietorship [] Partnership [] Corporation

I certify: information complete and accurate; designated funds available; required concurrences evidenced on signature page.

Date : Authorized Signature [Signature]

BC 13.047

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**PROPOSITION 84
INTEGRATED REGIONAL WATER MANAGEMENT
SUBGRANT AGREEMENT**

Between the Santa Barbara County Water Agency and the City of Goleta

This Proposition 84 Integrated Regional Water Management Subgrant Agreement (“AGREEMENT”) is made this _____ day of _____, 2012, between the Santa Barbara County Water Agency (“AGENCY”) and the City of Goleta (“SUBGRANTEE”) (collectively “THE PARTIES”), regarding the approved grant funded project component known as The San Jose Creek Capacity Improvement and Fish Passage Project (“THE PROJECT COMPONENT”).

RECITALS

1. The County of Santa Barbara and six other public agencies submitted a grant application to the California Department of Water Resources (DWR) for a Round 1 Proposition 84 IRWMP Implementation Grant for seven (7) water enhancement projects throughout Santa Barbara County, as specified in the IRWMP, to be carried out by various public agencies in Santa Barbara County with authority and responsibility for water facilities and programs;
2. DWR has approved the grant application of THE PARTIES, but requires that the grant agreement be entered into with a single eligible grant recipient, that is Santa Barbara County Water Agency;
3. AGENCY is an eligible grant recipient, and is willing to serve as the single grantee under the grant agreement with the California Department of Water Resources (DWR) and to enter into subgrant agreements with the other public agencies for state-approved project components in the IRWMP and grant application and to act with the assistance of a contractor, as the administrator of the grant, on the terms and conditions set forth herein;

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4. SUBGRANTEE has requested that AGENCY perform the function of grantee under the grant;
5. SUBGRANTEE wishes to carry out the approved grant project component known as The San Jose Creek Capacity Improvement and Fish Passage Project and consents to implement THE PROJECT COMPONENT through this AGREEMENT with AGENCY.
6. SUBGRANTEE is willing and committed to meet all DWR requirements under the grant agreement for THE 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.

AGREEMENT

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. AGENCY shall act as grantee under the Proposition 84 Integrated Regional Water Management Grant Program and shall, as an eligible grant recipient, enter into the 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.
2. Subject to DWR requirements and direction, AGENCY shall pay grant funds to SUBGRANTEE for work on THE 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.

3. AGENCY shall timely submit to the DWR invoices, reports, and assurances received from SUBGRANTEE prepared to meet the accounting, reporting and other requirements in the grant agreement for THE PROJECT COMPONENT. SUBGRANTEE shall prepare and submit these documents in accordance with the terms of the grant agreement.

4. AGENCY, assisted by the administration consultant, shall maintain files and accounts for THE PROJECT COMPONENT in accordance with grant agreement.

5. a) SUBGRANTEE shall carry out, build and/or perform San Jose Creek Capacity Improvement and Fish Passage Project (THE PROJECT COMPONENT in accordance with all requirements for THE PROJECT COMPONENT set forth in the grant agreement, attached hereto as Exhibit 1 and incorporated herein by this reference. SUBGRANTEE shall 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 THE PROJECT COMPONENT.

b) In the event SUBGRANTEE wishes to substantially alter the schedule, materials, methods or deliverables related to THE 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 the DWR for its consideration.

c) As AGENCY is acting as grantee under the grant agreement, SUBGRANTEE's questions and other communications related to the grant agreement or performance of work under the grant agreement shall be directed to the AGENCY's representatives for resolution with the DWR. AGENCY shall promptly relay SUBGRANTEE's questions and communications to the DWR.

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

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

Proposition 84	Match	Other State Funding	Total
\$1,202,428	\$21,458,660.	\$750,000	\$23,411,088.

This budget may be adjusted in accordance with the grant agreement.

7. To the fullest extent permitted by law, SUBGRANTEE shall indemnify, defend, and hold the AGENCY, its officers, employees and agents, free and harmless from any and all claims, costs, damages, investigations, arbitrations, lawsuits, and expenses, including without limitation attorney fees, judgments, awards or liabilities arising out of this AGREEMENT or SUBGRANTEE's work on THE PROJECT COMPONENT.

8. There shall be paid by SUBGRANTEE to AGENCY to fund AGENCY's ongoing administrative services as grant administrator an amount as established in the MOU between AGENCY and SUBGRANTEE. AGENCY may utilize these monies to engage a contractor to assist in the performance of administrative services. Payments shall be made in installments. The first year's payment shall be made within 60 days of entering into this AGREEMENT. Thereafter, on or before December 1 of each fiscal year that it is carrying out THE PROJECT COMPONENT, SUBGRANTEE shall make payments to AGENCY as set forth in the signed MOU or on such other schedule acceptable to AGENCY to fund AGENCY's

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services for grant administration. SUBGRANTEE shall pay AGENCY additional amounts as billed by the AGENCY at applicable hourly rates for any additional costs of administrative services caused by delays of the SUBGRANTEE.

9. In Accordance with the "GRANTEE REPRESENTATIONS" provision of the grant agreement between the DWR and AGENCY, THE PARTIES agree that SUBGRANTEE shall be solely responsible for compliance with all applicable laws, policies and regulations in carrying out this AGREEMENT and the San Jose Creek Capacity Improvement and Fish Passage Project.

10. AGENCY shall use all funds it receives for THE PROJECT COMPONENT from the DWR under the grant agreement solely and exclusively for the purposes set out in this AGREEMENT for THE PROJECT COMPONENT; provided, however, that AGENCY shall not be responsible for any funds paid out as a result of error, fraud, forgery or misrepresentation.

11. AGENCY shall have no responsibility for maintenance of or insurance for THE PROJECT COMPONENT.

12. 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 construction of THE PROJECT COMPONENT will proceed, be completed, or that the grant funds for THE PROJECT COMPONENT will be sufficient to meet incurred expenses.

AGENCY does not guarantee or warrant the plans and specifications for THE 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 contractors and subcontractors to perform any aspect of the work of THE PROJECT COMPONENT under this AGREEMENT.

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Instead, AGENCY is only acting as a conduit: 1) for transfer of grant funds to SUBGRANTEE for THE 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 the SUBGRANTEE to the DWR.

13. a) 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 the DWR to AGENCY. AGENCY assumes no liability to any entity, including but not limited to, SUBGRANTEE, and any contractors and subcontractors on THE PROJECT COMPONENT for any delays by the DWR in approval or transmittal of grant funds to the AGENCY.

b) SUBGRANTEE agrees that it shall return any audit disallowance related to THE PROJECT COMPONENT, as provided in the grant agreement to the AGENCY for transmission to the DWR.

14. THE PARTIES agree that if SUBGRANTEE abandons carrying out THE 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.

15. 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.

Agreement shall terminate if the grant agreement is canceled by the DWR. In this event, except

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for those funds already received from DWR and approved for payment for work on THE PROJECT COMPONENT, AGENCY shall have no liability to transmit any funds for work on THE PROJECT COMPONENT to SUBGRANTEE. SUBGRANTEE agrees to indemnify and defend and hold AGENCY harmless from any claims asserted against AGENCY by any entity in the event that the applicable federal or state budget act does not appropriate sufficient fund for THE PROJECT COMPONENT.

16. AGENCY shall not be responsible for securing insurance protection against loss or damage to THE PROJECT COMPONENT or any pre-purchased materials for said PROJECT COMPONENT, including but not limited to losses due to the following: fire, earthquake, vandalism and theft. Neither is AGENCY liable for any loss or damage resulting from the failure to secure any such insurance. As a minimum, SUBGRANTEE shall provide all insurance coverages as required for THE PROJECT COMPONENT in the grant agreement.

17. Upon completion of construction or performance of THE PROJECT COMPONENT or termination of this AGREEMENT, AGENCY shall: 1) disburse to SUBGRANTEE any remaining sums of money in the account approved by the 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.

18. SUBGRANTEE shall proceed with all reasonable diligence in: (i) the commencement and completion of THE PROJECT COMPONENT; (ii) submission of written reports, financial information, insurance, bonds, and assurances required by the grant agreement for THE PROJECT COMPONENT; and (iii) submittal of requests for payment fully compliant with the grant agreement, and accompanied by written verification certified under penalty of

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perjury that the request for payment is truthful and accurate and the described costs have all been incurred solely for THE PROJECT COMPONENT.

19. 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 the AGENCY and SUBGRANTEE.

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

21. This AGREEMENT is only for the benefit of THE PARTIES and not for the benefit of any third party, other than the DWR.

22. The signature of SUBGRANTEE's General Manager or Project Manager 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 grantee pursuant to the grant agreement, and subject to the DWR's transmittal of grant monies to AGENCY for THE PROJECT COMPONENT. Changes to authorized signatures shall be accomplished by written notice from SUBGRANTEE to AGENCY.

23. 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 the DWR to transmit monies to AGENCY. AGENCY has no obligation to transmit monies to any contractor, subcontractor, or consultant of SUBGRANTEE.

24. SUBGRANTEE agrees that, at SUBGRANTEE's sole expense, SUBGRANTEE shall ensure that the AGENCY, including its board, officers, consultants, employees, agents and volunteers, shall be 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 it has been so named as an additional insured on all insurance policies which SUBGRANTEE is required to obtain pursuant to the grant agreement.

25. The term of the AGREEMENT shall be the same as, and coincide with, the term of the grant agreement, incorporated herein by this reference as though fully set forth.

26. This AGREEMENT shall terminate upon the earlier of: (i) written notice from the DWR to AGENCY and SUBGRANTEE of insufficient appropriations and cancellation of the grant agreements; (ii) AGENCY's disbursement of all funds for THE PROJECT COMPONENT pursuant to this AGREEMENT by October 15, 2015, plus 15 years; or (iii) termination of the AGREEMENT by AGENCY due to breach as set forth in Paragraph 14.

27. (a.) For a period of five (5) years after completion of THE 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 THE PROJECT COMPONENT; (ii) requests for payment received from SUBGRANTEE; and (iii) AGENCY inspection of SUBGRANTEE requests for payment on THE PROJECT COMPONENT. Upon prior written request from the DWR or SUBGRANTEE, AGENCY shall provide the DWR or

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SUBGRANTEE reasonable access to inspect such records on AGENCY premises during normal business hours.

27. (b.) For a period of ten (10) years after completion of THE PROJECT COMPONENT, SUBGRANTEE shall maintain copies of all financial records related to THE 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.

28. Each of THE PARTIES represents and warrants that each person signing this AGREEMENT on behalf of any of THE PARTIES, has legal authority to sign this AGREEMENT, and bind that party.

29. Notice pursuant to this AGREEMENT shall be sent by United States Mail and by facsimile transmission to the following representatives for THE PARTIES.

SUBGRANTEE:

City of Goleta
130 Cremona Drive, Suite B
Goleta, California 93117

AGENCY:

Santa Barbara County Water Agency
123 East Anapamu Street
Santa Barbara, CA 93101
Attn: Scott D. McGolpin

THE PARTIES may change representatives upon written notice to the other party.

30. This AGREEMENT is entered into, and shall be construed and interpreted in accordance with the laws of the State of California.

31. 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.

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32. This AGREEMENT will be considered binding and effective when it has been fully executed by THE PARTIES. This AGREEMENT may be executed in counterpart originals, with all counterparts taken as a whole constituting the complete AGREEMENT. Wherefore, having read the foregoing and having understood and agreed to the terms of this AGREEMENT, THE PARTIES voluntarily affix their signatures below.

ACCEPTED and AGREED:

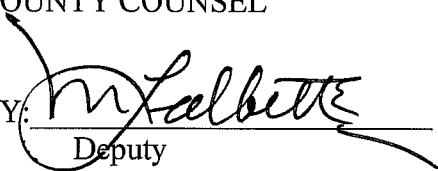
AGENCY:

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

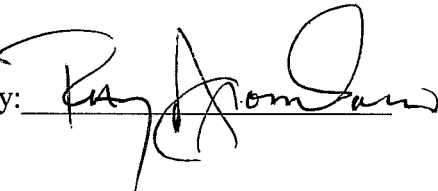
By: _____

Date: _____

APPROVED AS TO FORM:
DENNIS A. MARSHALL
COUNTY COUNSEL

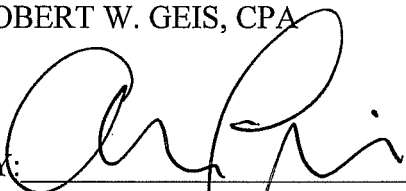
BY: 
Deputy

APPROVED AS TO FORM:
RAY AROMATORIO, ARM, AIC
RISK PROGRAM ADMINISTRATOR

By: 

[Signatures continued on following page]

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA

BY: 
Deputy
Deputy Auditor-Controller
Gregory Eric Levin
Advanced and Specialty Accounting

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SUBGRANTEE:

By: _____

Name _____

Title _____

Organization _____

Date _____

EXHIBIT 1

THE PROJECT COMPONENT

The City of Goleta, San Jose Creek Capacity Improvement and Fish Passage Project consists of the removal and replacement of the San Jose Creek Flood Control Channel. The objectives of Project 4 are to increase flood conveyance capacity, reduce flood hazard, and provide fish passage for migrating endangered steelhead trout (steelhead).

This Project is a cooperative effort between the City of Goleta (City) and Santa Barbara County Flood Control District (County Flood Control). The new channel will include a fish passage channel within the main flood control channel, which will allow for fish passage during low flow events, an articulated concrete revetment bottom, which will allow for improved water quality in the Goleta Slough, and enhanced groundwater recharge.

The Project has multiple goals. The primary goal is to reduce the potential for flooding in Old Town Goleta (it will be virtually eliminated for the 100-year storm event), a DAC area that sits adjacent to San Jose Creek. This in turn will encourage new building and reinvestment in existing infrastructure to revitalize this DAC. Another goal is to open up San Jose Creek to endangered steelhead. San Jose Creek leads up to historical spawning grounds for this endangered species. The existing channel functions as a 4,250-foot-long barrier to fish passage. The removal of this barrier will open up 5.49 miles of upstream habitat to migrating steelhead. This will provide the justification to later (not connected to this Project) remove two smaller barriers further upstream, which will result in an additional 2.25 miles for a total of 7.74 miles of historical habitat reopened to endangered steelhead. The Project also seeks to increase groundwater recharge by replacing the concrete-lined channel with an articulated revetment bottom, which will allow for fresh water to infiltrate into the groundwater and improve water quality in Goleta Slough by filtering out pollutants in storm drainage before it can enter the Slough.

The project consists of the removal and replacement of the San Jose Creek Flood Control Channel that will protect the Old Town section of Goleta from flooding. When completed, this multi-benefit project will increase flood conveyance capacity, provide fish passage for migrating endangered steelhead, improve water quality in the Goleta Slough (into which San Jose Creek flows), and enhance groundwater recharge. The Project is a cooperative effort between the City and County Flood Control. In order to complete the Project and receive its full benefits, the Hollister Avenue Bridge must be enlarged to pass 100-year flood flows. The bridge is located at the north end of the Project channel.

The Old Town Goleta area has been repeatedly damaged by overflows from San Jose Creek during flooding events. Photos dating back to the 1950s visually convey the degree of flooding. In more recent times, serious flooding occurred twice in 1995 and once in 1998, causing significant damage. A State of Emergency was declared for these events. The flooding devastated homes and businesses, absorbed public resources, and carried contaminants from

specific affected properties over the entire area, eventually entering the Goleta Slough and Pacific Ocean.

The existing flood control channel also acts as a barrier to the migration of steelhead. During low-flow events, fish are unable to swim up the channel and those that make it part of the way die stranded on the concrete; to allow for fish passage, the channel must be modified. The Project will include a low-flow channel designed specifically for fish passage. Completion of this Project will help restore steelhead runs in San Jose Creek. The upper section of San Jose Creek contains historical spawning grounds for the steelhead. In the report, *Steelhead Assessment and Recovery Opportunities in Southern Santa Barbara County*, San Jose Creek is listed as the second out of 44 streams in terms of importance of opportunities for steelhead recovery. Currently, the bacteria and nitrate levels in San Jose Creek and Goleta Slough (into which San Jose Creek runs) are unacceptable. The water quality in parts of the Goleta Slough does not meet Clean Water Act standards, and the area is on the 303(d) list of impaired water bodies for coliform bacteria and nitrates. Normal runoff from agricultural operations contributes to this, and there is even more nitrate loading during flooding events. The concrete channel has exacerbated these problems, because it does not afford the opportunity for biological activity or to filter out some of these substances before they reach the Goleta Slough and Goleta Beach.

The articulated revetment bottom (see adjacent photo of articulated revetment bottom on the Guadalupe River, 1988) will allow for natural filtration of runoff, especially during low flow events. The small grasses that will sprout between the revetments will use some of the nitrates in the runoff before they can reach the slough. The level of contaminants in the Goleta Slough will be reduced as flooding will be reduced from nearby agricultural and industrial areas.

The Project provides an additional recreational benefit. Currently, the Goleta Slough is accessed for kayaking and fishing from Goleta Beach. As part of an independent project, the Santa Barbara County Parks Department is planning improvements to these areas to provide enhanced recreational opportunities improving the water quality in Goleta Slough and Goleta Beach will benefit those who use the area for recreation.