

**CALIFORNIA PUBLIC UTILITIES COMMISSION
DIVISION OF WATER AND AUDITS**

Advice Letter Cover Sheet

Utility Name: San Gabriel Valley Water Co.

Date Mailed to Service List: 03/17/22

District: Los Angeles County Division

CPUC Utility #: U337W

Protest Deadline (20th Day): 04/06/22

Advice Letter #: 576

Review Deadline (30th Day): 04/16/22

Tier 1 2 3 Compliance

Requested Effective Date: 04/16/22

Authorization D.10-12-058

Rate Impact: \$0

Description: Compliance with D.10-12-058
RE: O&M Grant Funding

0.0%

The protest or response deadline for this advice letter is 20 days from the date that this advice letter was mailed to the service list. Please see the "Response or Protest" section in the advice letter for more information.

Utility Contact: Joel M. Reiker

Utility Contact: Crystal Navarro

Phone: (626) 448-6183

Phone: (626) 448-6183

Email: jmreiker@sgywater.com

Email: cnavarro@sgywater.com

DWA Contact: Tariff Unit

Phone: (415) 703-1133

Email: Water.Division@cpuc.ca.gov

DWA USE ONLY

DATE

STAFF

COMMENTS

APPROVED

WITHDRAWN

REJECTED

Signature: _____

Comments: _____

Date: _____

SAN GABRIEL VALLEY WATER COMPANY

March 17, 2022

Advice Letter No. 576

U337W

TO THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

San Gabriel Valley Water Company (“San Gabriel” or “Company”) submits this advice letter pursuant to Decision (“D.”) 10-12-058, APPENDIX A, Rules for the Accounting of Local and Federal Contamination Grant Funds (“Grant Rules”), to provide the Company’s planned accounting treatment of newly awarded contamination grant funds used to fund operations and maintenance (“O&M”) expenses in the Los Angeles County division. In accordance with Rule No. 6 of the Grant Rules, **this is designated as a Tier 2 advice letter.**

Purpose and Background

On December 16, 2010, the Commission issued D.10-12-058 in Rulemaking (“R.”) 09-03-014, modifying and adopting various rules for the accounting and ratemaking treatment of contamination proceeds, including proceeds received by investor-owned water utilities through government grants. Rule No. 6 of APPENDIX A to D.10-12-058 states:

6. *Unless the utility has received authorization from the funding agency, Grant Funds shall not be spent on expenses. Grant Funds that are expended for expenses authorized by the funding agency must not be included in the determination of the Results of Operations and the forecast of future expenses in a general rate case. Within 30 days after a funding agency authorizes a utility to spend Grant Funds on expenses the utility must file a Tier 2 advice letter filing that sets forth an accounting treatment to exclude such expenses from the Results of Operations and forecast of future expenses in a general rate case.*

By letter dated July 16, 2021, San Gabriel notified the Director of the Commission’s Water Division pursuant to Rule No. 17 of the Rules that the Company had entered into an agreement¹ with the State Water Resources Control Board (“SWRCB”) for O&M grant funding (“O&M Grant”) pursuant to the Proposition 68 Groundwater Treatment and Remediation Grant Program. (see **ATTACHMENT A**) The purpose of the O&M Grant is to fund the operation and maintenance of groundwater contamination treatment facilities constructed at San Gabriel’s Plants B24 and W6 in the Los Angeles County division for the purpose of removing volatile organic compounds (“VOC”), 1,4, -Dioxane,

¹ Agreement No. SWRCB0000000000D2012541 see **ATTACHMENT B**

Perfluorooctanoic Acid (“PFOA”), and Perfluorooctane Sulfonate (“PFOS”) in drinking water, and to prevent the migration of contaminated groundwater to other drinking water supply wells in the Main San Gabriel and Central Basins. The project funding amount (i.e. total grant funds) is up to \$4,414,000, and is intended to fund incremental (i.e. not presently included in San Gabriel’s adopted revenue requirement or rates) O&M expenses through February 28, 2023.

On February 15, 2022, San Gabriel submitted its first request to the SWRCB pursuant to the O&M Grant for the reimbursement of O&M expenses for Plant W6. San Gabriel’s request includes incremental reimbursable O&M expenses incurred from July 1, 2021 through December 31, 2021, for operating the Company’s ultraviolet and ion exchange treatment facilities at Plant W6 in the Los Angeles County division. These incremental O&M expenses include costs for outside services, supplies, water quality testing, and shipping.

Pursuant to Rule No. 6 of the Rules, San Gabriel hereby provides its planned accounting and ratemaking treatment for the reimbursable expenses.

San Gabriel’s Planned Treatment

San Gabriel’s last general rate case² (“GRC”) was filed in January 2019 with a fiscal (i.e. July through June) 2020-2021 test year. The final rates adopted by D.20-08-006 in that proceeding included an estimate of the additional purchased power expenses that would be incurred to operate the ultraviolet treatment facility San Gabriel constructed at Plant W6 for the purpose of removing 1,4-Dioxane. Other than these additional purchased power expenses, there are no O&M expenses included in San Gabriel’s present adopted revenue requirement and rates related to the groundwater contamination treatment facilities constructed at Plants B24 and W6.

Pursuant to Section B.1.7(f) of EXHIBIT B to the O&M Grant (**ATTACHMENT B**), San Gabriel may not seek reimbursement of any costs that have been reimbursed from other funding sources. Such other funding sources include San Gabriel’s Commission-approved rates. Accordingly, San Gabriel has and will only seek recovery of incremental O&M expenses that are not presently included in its adopted revenue requirement and rates. As noted above, to date San Gabriel has only requested reimbursement of costs for outside services, supplies, water quality testing, and shipping.

On January 3, 2022, San Gabriel filed its 2022 GRC application seeking Commission authority to increase rates for the test year beginning July 1, 2023.³ As explained above and in **ATTACHMENT B** hereto, the O&M Grant will fund incremental O&M expenses through February 28, 2023, which is four months prior to the beginning of the test year in San Gabriel’s current GRC. Because the O&M Grant only funds incremental expenses through February 28, 2023, such incremental reimbursable O&M expenses are effectively excluded from the results of operations and forecast of future expenses in San Gabriel’s 2022 GRC, thereby ensuring that San Gabriel’s shareholders will not profit in any way through the receipt of the O&M Grant.

Based on the foregoing, San Gabriel’s planned accounting treatment of newly awarded contamination grant funds used to fund O&M expenses complies with the Grant Rules adopted in D.10-12-058, the

² Application 19-01-001.

³ Application 22-01-003.

purpose of which is to “...preserve the public interest integrity of local and federal government grant and loan funds by ensuring that investor-owned water utilities and their shareholders will not be able to profit in any way through the receipt of public funds, and that the public retains the benefit of public funding, consistent with statutory requirements.”⁴

Service and Notice

Distribution of this advice letter is being made to the attached service list in accordance with Water Industry Rule 4.1 of General Order 96-B. No other parties have requested notification of advice letters related to the Los Angeles County division. In accordance with Water Industry Rule 3.3 of General Order 96-B, San Gabriel will also post this advice letter to its website www.sgvwater.com.

Protest and Responses

Anyone may respond to or protest this advice letter. A response supports the filing and may contain information that proves useful to the Commission in evaluating the advice letter. A protest objects to the advice letter in whole or in part and must set forth the specific grounds on which it is based. These grounds are:

- (1) San Gabriel did not properly serve or give notice of the advice letter;
- (2) The relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which San Gabriel relies;
- (3) The analysis, calculations, or data in the advice letter contain material error or omissions;
- (4) The relief requested in the advice letter is pending before the Commission in a formal proceeding;
- (5) The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process; or
- (6) The relief requested in the advice letter is unjust, unreasonable, or discriminatory, provided that such a protest may not be made where it would require re-litigating a prior order of the Commission.

A protest may not rely on a policy objection to an advice letter where the relief requested in the advice letter follows rules or directions established by statute or Commission order applicable to the utility. A protest shall provide citations or proofs where available to allow staff to properly consider the protest. A response or protest must be made in writing or by electronic mail and must be received by the Water Division within 20 days of the date this advice letter is filed. The address for mailing or delivering a response or protest is:

Email Address:
water.division@cpuc.ca.gov

Mailing Address:
California Public Utilities Commission
Water Division, 3rd Floor
505 Van Ness Avenue
San Francisco, CA 94102

⁴ D.10-12-058, Conclusion of Law No. 3.

On the same date the response or protest is submitted to the Water Division, the respondent or protestant shall send a copy of the protest by mail to San Gabriel addressed as follows:

Email Address:
jmreiker@sgvwater.com

Mailing Address:
San Gabriel Valley Water Company
Vice President of Regulatory Affairs
11142 Garvey Avenue
El Monte, CA 91733

Cities and counties that need Board of Supervisors or Board of Commissioners approval to protest should inform the Water Division, within the 20 day protest period, so that a late filed protest can be entertained. The informing document should include an estimate of the date the proposed protest might be voted on.

The advice letter process does not provide for any further responses, protests or comments, except for San Gabriel's reply, after the 20-day comment period. San Gabriel will reply to each protest and may reply to any response. Each reply must be received by the Water Division within five business days after the end of the protest period, and shall be served on the same day to the person who filed the protest or response in accordance with General Order 96-B, General Rule 7.4.3.

If you have not received a reply to your protest within ten business days, contact San Gabriel at (626) 448-6183.

San Gabriel Valley Water Company

/s/ Joel M. Reiker

Joel M. Reiker
Vice President of Regulatory Affairs

cc: Bruce DeBerry, CPUC – Water Division
Victor Chan, CPUC – Water Branch, Cal Advocates
Richard Rauschmeier, CPUC – Water Branch, Cal Advocates

ADVICE LETTER DISTRIBUTION LIST

San Gabriel Valley Water Company

Los Angeles County Division

Advice Letter No. 576

City of Arcadia

240 West Huntington Drive
Arcadia, CA 91006

City Clerk, City of Baldwin Park

14403 East Pacific Avenue
Baldwin Park, CA 91706

California-American Water Company

655 W. Broadway, Suite 1410
San Diego, CA 92101

City of El Monte Water Department

11333 Valley Boulevard
El Monte, CA 91734

Industry Public Utilities

Post Office Box 3165
City of Industry, CA 91744

City Clerk, City of Irwindale

5050 North Irwindale Avenue
Irwindale, CA 91706

City Clerk, City of La Puente

15900 East Main Street
La Puente, CA 91744

La Puente Valley County Water District

112 North 1st Street
La Puente, CA 91744

City of Montebello

1600 West Beverly Boulevard
Montebello, CA 90640

City of Monterey Park Water Department

320 West Newmark Avenue
Monterey Park, CA 91754

City of Pico Rivera Water Department

6615 Passons Boulevard
Pico Rivera, CA 90660

Pico Water District

Post Office Box 758
Pico Rivera, CA 90660-0758

City Clerk, City of West Covina

1444 West Garvey Avenue
West Covina, CA 91790

City Clerk, City of Rosemead

8838 Valley Boulevard
Rosemead, CA 91770

City Clerk, City of San Gabriel

425 South Mission Drive
San Gabriel, CA 91778

San Gabriel County Water District

8366 East Grand Avenue
Rosemead, CA 91770

City of Santa Fe Springs Water Department

Post Office Box 2120
Santa Fe Springs, CA 90670

City Clerk, City of South El Monte

1415 Santa Anita Avenue
South El Monte, CA 91733

Golden State Water Company

Attn: Ronald Moore, Regulatory Affairs
630 East Foothill Boulevard
San Dimas, CA 91773
rkmoore@gswater.com

Suburban Water Systems

Attn: Bob Kelly
1325 N. Grand Ave., Suite 100
Covina, CA 91724

Valley County Water District

14521 East Ramona Boulevard
Baldwin Park, CA 91706

City of Whittier Water Department

13230 East Penn Street
Whittier, CA 90602

Kiki Carlson

Suburban Water Systems
kcarlson@swwc.com

Liberty Utilities (Park Water) Corp.

9750 Washburn Road
P.O. Box 7002
Downey, CA 90241

AdviceLetterService@LibertyUtilities.com

ATTACHMENT A

SAN GABRIEL VALLEY WATER COMPANY

July 16, 2021

(By Certified Mail)

Terence Shia, Director
Water Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: **Execution of Agreement for Proposition 68 Grant Funding**

Dear Terence,

Pursuant to Rule No. 17 of the Rules for the Accounting of Local and Federal Contamination Grant Funds, adopted in Decision 10-12-058 (Appendix A), San Gabriel Valley Water Company would like to inform you that the company has executed an Agreement with the California State Water Resources Control Board for operations and maintenance grant funding (Agreement No. SWRCB000000000D2012541) pursuant to the Proposition 68 Groundwater Treatment and Remediation Grant Program (Prop. 68). The agreement provides a funding amount of up to \$4,414,000. San Gabriel intends to use this Prop. 68 grant to fund the operation and maintenance of new treatment facilities constructed at the Company's Plants B24 and W6 in the Los Angeles County division, which will treat groundwater polluted by volatile organic compounds (VOC), 1, 4,-Dioxane, Perfluorooctanoic Acid (PFOA), and Perfluorooctane Sulfonate (PFOS) to reduce contamination and prevent migration of contaminated groundwater to drinking water supply wells in the Main San Gabriel and Central Basins.

Please call me at (626) 448-6183 with any questions you might have.

Sincerely,



Joel M. Reiker
Vice President, Regulatory Affairs

cc: Amy C. Yip-Kikugawa, CPUC Public Advocates Office
Victor Chan, CPUC Public Advocates Office

ATTACHMENT B



PROPOSITION 68
GROUNDWATER

SAN GABRIEL VALLEY WATER COMPANY

AND

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD



OPERATIONS AND MAINTENANCE
GRANT

SAN GABRIEL VALLEY WATER COMPANY PLANT B24 AND PLANT W6 GROUNDWATER
REMEDATION PROJECT

AGREEMENT NO. SWRCB0000000000D2012541

PROJECT FUNDING AMOUNT: \$4,414,000

ELIGIBLE WORK START DATE: OCTOBER 8, 2020
WORK COMPLETION DATE: FEBRUARY 28, 2023
FINAL REIMBURSEMENT REQUEST DATE: MARCH 31, 2023
RECORDS RETENTION END DATE: FEBRUARY 28, 2059

AGREEMENT

1. AUTHORITY.

The State Water Resources Control Board (State Water Board) is authorized, and implements its authority, to provide financial assistance under this Agreement pursuant to Section 80141 of the Public Resources Code, and Resolution No. 2019-0041.

2. INTENTION.

- (a) The Recipient desires to receive financial assistance for and undertake work required for the groundwater operations and maintenance project (Project) set forth on the Cover Page and described in Exhibit A of this Agreement from the State Water Board according to the terms and conditions set forth in this Agreement.
- (b) The State Water Board proposes to assist in providing financial assistance for eligible costs of the Project in the Project Funding Amount set forth in Exhibit B, according to the terms and conditions set forth in this Agreement.

3. AGREEMENT, TERM, DOCUMENTS INCORPORATED BY REFERENCE.

In consideration of the mutual representations, covenants and agreements herein set forth, the State Water Board and the Recipient, each binding itself, its successors and assigns, do mutually promise, covenant, and agree to the terms, provisions, and conditions of this Agreement.

- (a) The State Water Board hereby makes a grant to the Recipient in accordance with the provisions of this Agreement.
- (b) Subject to the satisfaction of any condition precedent to this Agreement, this Agreement shall become effective upon the signature of both the Recipient and the State Water Board. Conditions precedent are not limited to the following:
 - (1) The Recipient must deliver to the Division a resolution authorizing the Recipient to enter into this Agreement and identifying its Authorized Representative by title.
- (c) Upon execution, the term of the Agreement shall begin on the Eligible Work Start Date and extend through the Records Retention End Date.
- (d) This Agreement includes the following exhibits and attachments thereto:

EXHIBIT A – SCOPE OF WORK
EXHIBIT B – FUNDING TERMS
EXHIBIT C – GENERAL AND PROGRAMMATIC TERMS AND CONDITIONS
EXHIBIT D – SPECIAL CONDITIONS

4. PARTY CONTACTS

The Party Contacts during the term of this Agreement are:

State Water Board		San Gabriel Valley Water Company	
Section:	Division of Financial Assistance		
Name:	Tricia Carter, Project Manager	Name:	Martin Zvirbulis
Address:	1001 I Street, 17 th Floor	Address:	PO Box 6010
City, State, Zip:	Sacramento, CA 95814	City, State, Zip:	El Monte, CA 91734
Phone:	(916) 319-8258	Phone:	(626) 448-6183
Fax:	(916) 351-5708	Fax:	(626) 448-2105
Email:	Tricia.Carter@waterboards.ca.gov	Email:	mezvirbulis@sgvwater.com

Direct inquiries to:

State Water Board		San Gabriel Water Company	
Section:	Division of Financial Assistance		
Name:	Brittani Evans, Program Analyst	Name:	Martin Zvirbulis
Address:	1001 I Street, 17 th Floor	Address:	PO Box 6010
City, State, Zip:	Sacramento, CA 95814	City, State, Zip:	El Monte, CA 91734
Phone:	(916) 341-5930	Phone:	(626) 448-6183
Fax:	(916) 341-5296	Fax:	(626) 448-2105
Email:	Brittani.Evans@waterboards.ca.gov	Email:	mezvirbulis@sgvwater.com

The Recipient may change its Project Director upon written notice to the Project Manager, which notice shall be accompanied by authorization from the Recipient's Authorized Representative. The State Water Board will notify the Project Director of any changes to its Party Contacts.

While the foregoing are contacts for day-to-day communications regarding Project work, the Recipient shall provide official communications and events of Notice as set forth in Exhibit C to the Division's Deputy Director.

5. DEFINITIONS.

Unless otherwise specified, each capitalized term used in this Agreement has the following meaning:

"Additional Payments" means the reasonable extraordinary fees and expenses of the State Water Board, and of any assignee of the State Water Board's right, title, and interest in and to this Agreement, in connection with this Agreement, including all expenses and fees of accountants, trustees, staff, contractors, consultants, costs, insurance premiums and all other extraordinary costs reasonably incurred by the State Water Board or assignee of the State Water Board.

"Agreement" means this agreement, including all exhibits and attachments hereto.

"Authorized Representative" means the duly appointed representative of the Recipient as set forth in the certified original of the Recipient's authorizing resolution that designates the authorized representative by title.

"Cover Page" means the front page of this Agreement.

"Days" means calendar days unless otherwise expressly indicated.

"Deputy Director" means the Deputy Director of the Division.

"District Office" means District Office of the Division of Drinking Water of the State Water Board.

"Division" means the Division of Financial Assistance of the State Water Board or any other segment of the State Water Board authorized to administer this Agreement.

"Division of Drinking Water" means the Division of Drinking Water of the State Water Board.

"Eligible Work Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which any costs may be incurred and eligible for reimbursement hereunder.

"Event of Default" means the occurrence of any of the following events:

- a) A representation or warranty made by or on behalf of the Recipient in this Agreement or in any document furnished by or on behalf of the Recipient to the State Water Board pursuant to this Agreement shall prove to have been inaccurate, misleading or incomplete in any material respect;
- b) A material adverse change in the condition of the Recipient, which the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement;
- c) Failure to operate the Project without the Division's approval;
- d) Failure by the Recipient to observe and perform any covenant, condition, or provision in this Agreement, which failure shall continue for a period of time, to be determined by the Division;
- e) Initiation of proceedings seeking arrangement, reorganization, or any other relief under any applicable bankruptcy, insolvency, or other similar law; the appointment of or taking possession of the Recipient's property by a receiver, liquidator, assignee, trustee, custodian, conservator, or similar official; the Recipient's entering into a general assignment for the benefit of creditors; the initiation of resolutions or proceedings to terminate the Recipient's existence, or any action in furtherance of any of the foregoing;
- f) A determination pursuant to Gov. Code section 11137 that the Recipient has violated any provision in Article 9.5 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code; or

- g) Loss of the Recipient's rights, licenses, permits, or privileges necessary for the operation of the Project, or the occurrence of any material restraint on the Recipient's enterprise by a government agency or court order.

"Facility" means the facility, for which funding is being provided to operate, maintain, and/or improve, as further described in Appendix A. The Facility includes existing components and new components constructed as part of this Project.

"Final Reimbursement Request Date" means the date set forth on the Cover Page of this Agreement, after which date, no further reimbursements or disbursements may be requested.

"Fiscal Year" means the period of twelve (12) months terminating on June 30 of any year.

"Force Account" means the use of the Recipient's own employees, equipment, or resources for the Project.

"GAAP" means generally accepted accounting principles, the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor, or the Uniform System of Accounts, as adopted by the California Public Utilities Commission for water utilities.

"Grant Contact" means the employee of the Recipient who has been delegated by the Project Director to oversee the day-to-day activities of the Project. The Grant Contact is set forth in Section 4 of this Agreement.

"Guidelines" means the State Water Board's "Proposition 68 Groundwater Treatment and Remediation Grant Program Funding Guidelines," in effect as of the execution date of this Agreement.

"Indirect Costs" means those costs that are incurred for a common or joint purpose benefiting more than one cost objective and are not readily assignable to the Project (i.e., costs that are not directly related to the Project). Examples of Indirect Costs include, but are not limited to: central service costs; general administration of the Recipient; non-project-specific accounting and personnel services performed within the Recipient organization; depreciation or use allowances on buildings and equipment; the costs of operating and maintaining non-project-specific facilities; tuition and conference fees; generic overhead or markup; and taxes.

"Match Funds" means funds provided by the Recipient towards the Project Costs incurred on or after June 5, 2018. Funds spent on ineligible Project Costs are not Match Funds.

"Material Obligation" means an obligation of the Recipient that is material to this transaction.

"Party Contact" means, for the Recipient, the Authorized Representative of the Recipient or any designee of the Authorized Representative, and, for the State Water Board, the Division staff set forth in Section 4 of this Agreement.

"Project" means the Project funded by this Agreement as described in Exhibits A and B and in the documents incorporated by reference herein.

"Project Completion" means, as determined by the Division, that the Project is complete to the reasonable satisfaction of the Division.

"Project Costs" means the incurred costs of the Recipient which are eligible for funding under this Agreement, pursuant to applicable statutes, policy, regulation, or guidelines.

"Project Director" means an employee of the Recipient designated by the Authorized Representative to be responsible for the overall management of the administrative and technical aspects of the executed Agreement. The Project Director is set forth in Section 4 of this Agreement.

"Project Funding Amount" means the maximum amount payable under this Agreement, as set forth on the Cover Page.

"Project Funds" means all moneys disbursed to the Recipient by the State Water Board for eligible Project Costs pursuant to this Agreement.

"Project Manager" means the person designated by the State Water Board to manage performance of this Agreement. The Project Manager is set forth in Section 4 of this Agreement. The term "Grant Manager" in the Guidelines refers to the Project Manager herein.

"Recipient" means San Gabriel Valley Water Company

"Records Retention End Date" means the last date that the Recipient is obligated to maintain records and is set forth on the Cover Page of this Agreement.

"Regional Water Quality Control Board" or "Regional Water Board" means the appropriate Regional Water Quality Control Board.

"Reimbursement Period" means the period during which Project Funds may be disbursed.

"Reimbursement Request" means the Recipient's request for Project Funds from the State Water Board as set forth in Exhibit B.

"State" means State of California.

"State Water Board" means the State Water Resources Control Board.

"Work Completion" means the Recipient's submittal of all work set forth under Exhibit A for review and approval by the Division.

"Work Completion Date" means the date set forth on the Cover Page of this Agreement and is the last date on which Project Costs may be incurred under this Agreement.

"Year" means calendar year unless otherwise expressly indicated.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

SAN GABRIEL WATER COMPANY

By: Martin Zvirbulis
Name: Martin Zvirbulis
Title: Vice President

Date: 5/27/2021

STATE WATER RESOURCES CONTROL BOARD:

By: Leslie S. Laudon, Asst. Dep. Dir.
Name: Leslie S. Laudon
Title: Deputy Director
Division of Financial Assistance

Date: 6/7/21

EXHIBIT A – SCOPE OF WORK

A.1 PROJECT DESCRIPTION AND SCOPE OF WORK

(a) The Project is for the benefit of the Recipient. The funding under this Agreement is for the purpose of operating and maintaining the San Gabriel Valley Water Company Plant B24 and Plant W6 treatment facilities (Facilities) and treating groundwater polluted by volatile organic compounds (VOC), 1,4-Dioxane, Perfluorooctanoic Acid (PFOA), and Perfluorooctane Sulfonate (PFOS) to reduce contamination and prevent migration of contaminated groundwater to drinking water supply wells in the Main San Gabriel and Central Basins.

(b) Scope of Work

The Recipient agrees to do the following:

1. Project Management

- 1.1 Provide all technical and administrative services as needed for Project completion; monitor, supervise, and review all work performed; and coordinate budgeting and scheduling to ensure the Project is completed within budget, on schedule, and in accordance with approved procedures, applicable laws, and regulations.
- 1.2 Notify the Project Manager at least fifteen (15) working days in advance of upcoming meetings, workshops, trainings, and fieldwork activities.
- 1.3 Develop and update appropriately a detailed Project schedule, including key Project milestones, and submit to the Project Manager.
- 1.4 Conduct periodic and final site visits with the Project Manager and other staff designated by the Division.
- 1.5 Conduct photo monitoring at the Project site and submit to the Project Manager.

2. General Compliance Requirements/Project Effectiveness and Performance

- 2.1 Submit Global Positioning System (GPS) information and survey data for project site(s) and monitoring location(s) for this Project to the Project Manager. Submittal requirements for GPS data are available at: https://www.waterboards.ca.gov/water_issues/programs/grants_loans/grant_info/docs/gps.pdf.
- 2.2 Submit a Monitoring and Reporting Plan (MRP) that addresses performance monitoring for the duration of the Project. Submit the MRP to the Project Manager for approval. The MRP may be submitted as separate documents or in one report and shall include the following:

- 2.2.1 A Monitoring Plan (MP) that includes the following sections:
 - 2.2.1.1 Purpose: Describe the methods used to measure, evaluate and document performance of the remediation and treatment system(s).
 - 2.2.1.2 Project Area: Provide a map and narrative description of the location of the Project, and location of monitoring wells, if applicable, and production wells that are being sampled to achieve the purpose of the MP.
 - 2.2.1.3 Sampling Plan: Describe the sampling and analytical methods to be used, selection of monitoring locations, frequency of monitoring, and process to make any necessary changes to achieve the purpose of the MP.
 - 2.2.1.4 Field Procedures: Provide a description of field procedures including sample collection methods, equipment decontamination, sample identification and handling, and documentation procedures.
- 2.2.2 A Project Assessment and Evaluation Plan (PAEP) which describes how the Project performance will be assessed, evaluated, and reported. The PAEP must establish current groundwater quality conditions for the Project area and detail the Project's goals, desired outcomes, purpose and objectives, and the methods of measuring and reporting Project benefits.
- 2.2.3 Prepare, maintain, and implement a Quality Assurance Project Plan (QAPP).
- 2.3 Monitor Project effectiveness in accordance with the approved MRP.
 - 2.3.1 Conduct the monitoring in accordance with the approved MRP and include the results in the associated quarterly progress report. A summary of all Project effectiveness monitoring and data analysis shall be included in the Final Project Report.
- 2.4 Prepare and upload all groundwater analytical data collected in accordance with the MRP, to the State Water Board's GeoTracker/ Groundwater Ambient Monitoring and Assessment (GAMA) system in Electronic Deliverable Format (EDF). Locational information for these sampling points shall be submitted using the GEO_XY file. Contact the Project Manager to obtain a Global ID prior to collecting samples.
 - 2.4.1 Upload other data related to the design and development of the Project that is not presently available on GeoTracker/GAMA. This may include reports, figures, maps and geographic information system (GIS) data. Submit an annotated list of reviewed data and reports to the Project Manager.

3. Environmental Compliance and Permitting

- 3.1 Obtain all public agency approvals, entitlements, or permits required for Project implementation. If the Project is carried out on lands not owned by the Recipient, the Recipient shall obtain adequate rights of way for the useful life of the Project.

4. Operations and Maintenance (O&M)

- 4.1 Complete eligible and necessary Project-related O&M tasks. The types of eligible costs associated with this work include but are not limited to: permitting, monitoring, reporting, utility bills, chemicals, replacement or changeout of existing equipment or media, contractor labor, and plant operator(s).

A.2 STANDARD PROJECT REQUIREMENTS

A.2.1 Acknowledgements.

The Recipient shall include the following acknowledgement in any document, written report, or brochure prepared in whole or in part pursuant to this Agreement:

“Funding for this project has been provided in full or in part through an agreement with the State Water Resources Control Board. The contents of this document do not necessarily reflect the views and policies of the foregoing, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.”

A.2.2 Reports.

A.2.2.1 Progress Reports.

The Recipient shall submit quarterly progress reports, using a format provided by the Project Manager, within forty-five (45) days following the end of the calendar quarter (March, June, September, and December) to the Project Manager. Progress reports shall provide a brief description of operation and maintenance activities that have occurred, milestones achieved, monitoring results (if applicable), and any problems encountered in the performance of the work under this Agreement during the applicable reporting period. Reporting shall be required even if no Project-related activities occurred during the reporting period. The Recipient shall document all activities and expenditures in progress reports, including work performed by contractors.

A.2.2.2 Draft and Final Project Report and Project Summary.

- (a) At the conclusion of the Project, the Recipient must submit the following to the Project Manager:
- (1) Draft Final Project Report. Prepare and submit to the Project Manager, for review and comment, a draft Final Project Report in a format provided by the Project Manager that shall include the following information, as well as information set forth in the Scope of Work, above:
- a. Description of the water quality problem the Project sought to address,

- b. Discussion of the Project's likelihood of successfully addressing that water quality problem in the future, and
 - c. Summary of compliance with applicable environmental conditions.
- (2) Final Project Report. Prepare a Final Project Report that addresses, to the extent feasible, comments made by the Project Manager on the draft Final Project Report. Submit one (1) reproducible master copy and an electronic copy of the final. Upload an electronic copy of the Final Project Report in pdf format to the Financial Assistance Application Submittal Tool (FAAST) system (available at <https://faast.waterboards.ca.gov/>).
- (3) Final Project Summary. Prepare a brief summary of the information contained in the Final Project Report, using a format provided by the Project Manager. Include accomplishments, recommendations, and lessons learned, as appropriate. Upload an electronic copy of the Final Project Summary in pdf format to the FAAST system.
- (b) If the Recipient fails to submit a timely Final Project Report, the State Water Board may stop processing pending or future applications for new financial assistance, withhold reimbursements under this Agreement or other agreements, and begin administrative proceedings.

A.2.2.3 As Needed Reports.

The Recipient must provide expeditiously, during the term of this Agreement, any reports, data, and information reasonably required by the Division, including but not limited to material necessary or appropriate for evaluation of the funding program or to fulfill any reporting requirements of the State or federal government.

A.2.3 Signage.

The Recipient shall place a sign at least four (4) feet tall by eight (8) feet wide made of ¾ inch-thick exterior grade plywood or other approved material in a prominent location on the Project site and shall maintain the sign in good condition for the duration of project implementation. The sign must include the following disclosure statement and color logos (available from the Division):

- (a)  
- (b) "Funding for this project has been provided in full or in part by Proposition 68 – the California, Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 through an agreement with the State Water Resources Control Board."

- (c) The Project sign may include another agency's required promotional information so long as the above logos and disclosure statement are equally prominent on the sign. The sign shall be prepared in a professional manner.

A.3 DATES AND DELIVERABLES

- (a) Time is of the essence.
- (b) The Recipient must expeditiously proceed with and complete the Project.
- (c) The following dates are established as on the Cover Page of this Agreement:
 - (1) Eligible Work Start Date
 - (2) Work Completion Date
 - (3) Final Reimbursement Request Date
 - (4) Records Retention End Date
- (d) The Recipient must begin work timely.
- (e) The Recipient must deliver any request for amendment no fewer than one hundred twenty (120) days prior to the Work Completion date.
- (f) The undisbursed balance of this Agreement will be deobligated if the Recipient does not provide its final Reimbursement Request to the Division on or before the Final Reimbursement Request Date, unless prior approval has been granted by the Division.
- (g) Upon request by the Division, the Recipient shall submit verifiable data to support deliverables specified in the Scope of Work. The Recipient's failure to comply with this requirement may be construed as a material breach of this Agreement.

A.4 SUBMITTAL SCHEDULE

Failure to provide items by the due dates indicated in the table below may constitute a material violation of this Agreement. However, the dates in the "Estimated Due Date" column of this table may be adjusted as necessary during the Reimbursement Period with Project Manager approval. All work or submittals must be achieved with relevant submittals approved by the Division prior to the Work Completion Date, and the final Reimbursement Request submitted, prior to the Final Reimbursement Request Date set forth on the Cover Page. As applicable for specific deliverables, the Recipient shall plan adequate time to solicit, receive, and address comments prior to submitting the final deliverable.

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
EXHIBIT A – SCOPE OF WORK			
1.	Project Management		
1.2	Notification of Upcoming Meetings, Workshops, and Trainings		Ongoing
1.3	Detailed Project Schedule	30 Days After Execution	
1.4	Periodic and Final Site Visits		As Needed
1.5	Photo Documentation		Ongoing
2.	General Compliance Requirements/Project Effectiveness and Performance		
2.1	Global Positioning System (GPS) Information		30 Days After Execution
2.2	Monitoring and Reporting Plan (MRP)		90 Days After Execution
2.2.1	Monitoring Plan (MP)		90 Days After Execution
2.2.2	Project Assessment and Evaluation Plan (PAEP)	120 Days After Execution	
2.2.3	Quality Assurance Project Plan (QAPP)		90 Days After Execution
2.4.1	Annotated List of Reviewed Data and Reports		60 Days After Execution
A.2.2 – REPORTS			
A.2.2.1	Progress Reports	Quarterly	
A.2.2.2 (a)(1)	Draft Final Project Report	December 31, 2022	

Exhibit A

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
A.2.2.2 (a)(2)	Final Project Report	January 31, 2023	
A.2.2.2 (a)(3)	Final Project Summary	Before Work Completion Date	
A.2.2.3	As Needed Information or Reports		As Needed
EXHIBIT B – FUNDING TERMS			
B.1.7 (b)(6)	Final Reimbursement Request	March 31, 2023	
B.1.7 (d)	Reimbursement Requests	Quarterly	

EXHIBIT B – FUNDING TERMS

B.1 FUNDING AMOUNTS AND DISBURSEMENTS

B.1.1 Funding Contingency and Other Sources.

- (a) If this Agreement's funding for any Fiscal Year expires due to reversion or is reduced, substantially delayed, or deleted by the Budget Act, by Executive Order, or by order or action of the Department of Finance, the State Water Board has the option to either cancel this Agreement with no liability accruing to the State Water Board, or offer an amendment to the Recipient to reflect the reduced amount.
- (b) If funding for Project Costs is made available to the Recipient from sources other than this Agreement, the Recipient must notify the Division. The Recipient may retain such funding up to an amount which equals the Recipient's share of Project Costs. To the extent allowed by requirements of other funding sources, excess funding must be remitted to the State Water Board.

B.1.2 Estimated Reasonable Cost.

The estimated reasonable cost of the total Project is FOUR MILLION FOUR HUNDRED FOURTEEN THOUSAND DOLLARS (\$4,414,000).

B.1.3 Project Funding Amount.

Subject to the terms of this Agreement, the State Water Board agrees to provide Project Funds not to exceed the amount of the Project Funding Amount set forth on the Cover Page of this Agreement.

B.1.4 Match Funds.

- (a) The Recipient agrees to provide Match Funds in the amount of ZERO DOLLARS (\$0).
- (b) This Match Funds amount is based on the budget, funding sources, and amounts submitted by the Recipient in its application and during the negotiation of this Agreement. Any Match Funds changes or adjustments requested by the Recipient must be approved, in advance and in writing, by the Project Manager and may require an amendment to this Agreement.

B.1.5 Budget Costs.

Budget costs are contained in the Project Cost Table below:

LINE ITEM	PROJECT FUNDS	MATCH FUNDS*	TOTAL PROJECT COSTS
Direct Project Administration Costs	\$145,000	\$0	\$145,000
Planning/Design/Engineering/Environmental	\$105,000	\$0	\$105,000
Implementation	\$3,649,000	\$0	\$3,649,000
Monitoring/Performance	\$515,000	\$0	\$515,000
Education/Outreach	\$0	\$0	\$0
TOTAL	\$4,414,000	\$0	\$4,414,000

*Match reduced. The project benefits a disadvantaged community.

- (a) Subject to the prior review and approval of the Project Manager, adjustments between existing line items may be used to defray allowable direct costs up to fifteen percent (15%) of the total Project Funding Amount, including any amendment(s) thereto. Line item adjustments approved by the Project Manager must be de minimis, less than fifteen percent (15%) of the total Project Funding Amount and may not include any changes to the Scope of Work. Line item adjustments in excess of fifteen percent (15%) or line item adjustments that result in a change to the scope of work will require an Agreement amendment. If the detailed budget includes an amount for the Recipient's personnel costs, that amount is based on the hours, classifications, and rates submitted by the Recipient in its application. Any changes to the hours, classifications, and rates must be approved, in advance and in writing, by the Project Manager.
- (b) The Recipient may submit a request for an adjustment in writing to the Project Manager. Such adjustment may not increase or decrease the total Project Funding Amount. The Recipient shall submit a copy of the original Agreement budget sheet reflecting the requested changes and shall note proposed changes by striking out the original amount(s) followed with proposed change(s) in bold and underlined. Budget adjustments deleting a budget line item or adding a new budget line item shall require a formal amendment. The Division may also propose budget adjustments.
- (c) The sum of adjusted line items shall not exceed the Project Funding Amount.
- (d) In the event the Recipient does not submit Reimbursement Requests for all funds encumbered under this Agreement by the Final Reimbursement Request Date, any remaining funds revert to the State. The State Water Board may notify the

Recipient that the project file is closed, and any remaining balance will be disencumbered and unavailable for further use under the Agreement.

B.1.6 Contingent Disbursement.

- (a) Notwithstanding any other provision of this Agreement, the Recipient agrees that the State Water Board may retain an amount equal to ten percent (10%) of the Project Funding Amount until Project Completion. Any retained amounts due to the Recipient will be promptly disbursed to the Recipient, without interest, upon Project Completion.
- (b) The State Water Board's disbursement of funds hereunder is contingent on the Recipient's compliance with the terms and conditions of this Agreement.
- (c) Project Funds may not include the Recipient's Indirect Costs. Any Reimbursement Request submitted including such costs will cause that Reimbursement Request, in its entirety, to be disputed and will not be paid until the dispute is resolved.
- (d) The State Water Board's obligation to disburse Project Funds is contingent upon the availability of sufficient funds to permit the disbursements provided for herein. If sufficient funds are not available for any reason including, but not limited to, failure of the federal or State government to appropriate funds necessary for disbursement of Project Funds, the State Water Board shall not be obligated to make any disbursements to the Recipient under this Agreement. This provision shall be construed as a condition precedent to the obligation of the State Water Board to make any disbursements under this Agreement. Nothing in this Agreement shall be construed to provide the Recipient with a right of priority for disbursement over any other entity. If any disbursements due the Recipient under this Agreement are deferred because sufficient funds are unavailable, it is the intention of the State Water Board that such disbursement will be made to the Recipient when sufficient funds do become available, but this intention is not binding.
- (e) No costs incurred prior to the Eligible Work Start Date are eligible for reimbursement.
- (f) Failure to proceed according to the timelines set forth in this Agreement may require the Recipient to repay to the State Water Board all disbursed Project Funds.

B.1.7 Reimbursement Procedure.

Except as may be otherwise provided in this Agreement, reimbursement of Project Funds will be made as follows:

- (a) Upon execution and delivery of this Agreement, the Recipient may submit a Reimbursement Request for eligible Project Costs through submission to the State Water Board using the Reimbursement Request forms provided by the Project Manager.

- (b) Reimbursement Requests shall contain the following information:
- (1) The date of the request;
 - (2) The time period covered by the request, i.e., the term "from" and "to";
 - (3) The total amount requested;
 - (4) Documentation of Match Funds used, if any;
 - (5) Original signature and date (in ink) of the Recipient's Authorized Representative or his/her designee; and
 - (6) The final Reimbursement Request shall be clearly marked "FINAL REIMBURSEMENT REQUEST" and shall be submitted NO LATER THAN the Final Reimbursement Request Date.
- (c) Reimbursement Requests must be itemized based on the line items specified in the budget in this Exhibit. Reimbursement Requests must be complete, signed by the Recipient's Authorized Representative or his/her designee, and addressed to the Project Manager as set forth in Section 4 of this Agreement. Reimbursement Requests submitted in any other format than the one provided by the State Water Board will cause a Reimbursement Request to be disputed. In the event of such a dispute, the Project Manager will notify the Recipient. Payment will not be made until the dispute is resolved and a corrected Reimbursement Request submitted. The Project Manager has the responsibility for approving Reimbursement Requests. Project Costs incurred prior to the Eligible Work Start Date of this Agreement will not be reimbursed.
- (d) Project Funds must be requested quarterly via Reimbursement Request for eligible costs incurred during the reporting period of the corresponding Progress Report, describing the activities and expenditures for which the reimbursement is being requested. Each Reimbursement Request must be accompanied by a Progress Report. Failure to provide timely Reimbursement Requests may result in such requests not being honored.
- (e) The Recipient agrees that it will not submit any Reimbursement Requests that include any Project Costs until such cost has been incurred and is currently due and payable by the Recipient, although the actual payment of such cost by the Recipient is not required as a condition of Reimbursement Request. Supporting documentation (e.g., receipts, laboratory invoices) must be submitted with each Reimbursement Request as well as to support Match Funds claimed, if any. The amount requested for administration costs must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = total amount claimed). Reimbursement of Project Funds will be made only after receipt of a complete, adequately supported, properly documented and accurately addressed Reimbursement Request.
- (f) The Recipient will not seek reimbursement of any Project Costs that have been reimbursed from other funding sources.

- (g) The Recipient shall use Project Funds within thirty (30) days of receipt to reimburse contractors, vendors, and other Project Costs. Any interest earned on Project Funds shall be reported to the State Water Board and will either be required to be returned to the State Water Board or deducted from future reimbursements. In the event that the Recipient fails to disburse Project Funds to contractors or vendors within thirty (30) days from receipt of the Project Funds, the Recipient shall immediately return such Project Funds to the State Water Board. Interest shall accrue on such Project Funds from the date of reimbursement through the date of mailing of Project Funds to the State Water Board. If the Recipient held such Project Funds in interest-bearing accounts, any interest earned on the Project Funds shall also be due to the State Water Board.
- (h) The Recipient must submit its final Reimbursement Request no later than the Final Reimbursement Request Date specified herein unless prior approval is granted by the Division. If the Recipient fails to do so, then the undisbursed balance of this Agreement may be deobligated.
- (i) The Recipient agrees that it will not request a reimbursement unless that cost is allowable, reasonable, and allocable.
- (j) Notwithstanding any other provision of this Agreement, no reimbursement shall be required at any time or in any manner that is in violation of or in conflict with federal or State laws, policies, or regulations.
- (k) The Recipient agrees that it shall not be entitled to interest earned on undisbursed Project Funds.
- (l) No work or travel outside the State of California is permitted under this Agreement unless the Division provides prior written authorization. Failure to comply with this restriction may result in termination of this Agreement, pursuant to Exhibit C. Any reimbursement for necessary travel and per diem shall be at rates not to exceed those set by the California Department of Human Resources at <http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>. as of the date costs are incurred by the Recipient.
- (m) The Recipient must include any other documents or requests required or allowed under this Agreement.

B.1.8 Withholding of Disbursements.

Notwithstanding any other provision of this Agreement, the State Water Board may withhold all or any portion of the Project Funding Amount upon the occurrence of any of the following events:

- (a) The Recipient's failure to maintain reasonable progress on the Project as determined by the Division;

- (b) Commencement of litigation or a judicial or administrative proceeding related to the Project, that the State Water Board determines may impair the timely satisfaction of the Recipient's obligations under this Agreement;
- (c) Any investigation by State, local, or federal investigators or auditors, or a grand jury, relating to the Recipient's financial management, accounting procedures, or internal fiscal controls;
- (d) A material adverse change in the condition of the Recipient, or the Project, that the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement, or any other event that the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement;
- (e) The Recipient's material violation of, or threat to materially violate, any term of this Agreement;
- (f) Suspicion of fraud, forgery, embezzlement, theft, or any other misuse of public funds by the Recipient or its employees, or by its contractors or agents regarding the Project;
- (g) An event requiring notice under this Agreement; or
- (h) An Event of Default or an event that the Division determines may become an Event of Default.

B.1.9 Fraud and Misuse of Public Funds.

All Reimbursement Requests submitted must be accurate and signed by the Recipient's Authorized Representative under penalty of perjury. All costs submitted pursuant to this Agreement must only be for the work or tasks set forth in this Agreement. The Recipient must not submit any Reimbursement Request containing costs that are ineligible or have been reimbursed from other funding sources unless required and specifically noted as such (i.e., match costs). Any costs for which the Recipient is seeking reimbursement shall not be reimbursed from any other source. Double or multiple billing for time, services, or any other eligible cost is improper and will not be compensated. Any suspected occurrences of fraud, forgery, embezzlement, theft, or any other misuse of public funds may result in suspension of disbursements and, notwithstanding any other section in this Agreement, the termination of this Agreement requiring the repayment of all Project Funds disbursed hereunder. Additionally, the Deputy Director of the Division may request an audit and refer the matter to the Attorney General's Office or the appropriate district attorney's office for criminal prosecution or the imposition of civil liability.

B.2 RECIPIENT'S PAYMENT OBLIGATION

B.2.1 Project Costs.

The Recipient must pay any and all costs connected with the Project including, without limitation, any and all Project Costs and Additional Payments. If the Project Funds are not sufficient to pay the Project Costs in full, the Recipient must nonetheless complete the Project and pay that portion of the Project Costs in excess of available Project Funds, and shall not be entitled to any reimbursement therefor from the State Water Board.

B.3 NO LIENS

The Recipient must not make any pledge of or place any lien on the Facility or the Project, except upon consent of the Division, except that Project Facilities owned by Recipient shall be subject to that certain Trust Indenture dated September 1, 1945, executed by San Gabriel Valley Water Company as Trustor and recorded on November 8, 1945, as amended and supplemented by various instruments of record, including a Twenty-Fifth Supplemental Indenture dated January 17, 2020, executed by U. S. Bank National Association as successor trustee and recorded January 17, 2020 as Document No. 20200066745, in Official Records, Los Angeles, County.

EXHIBIT C – GENERAL AND PROGRAMMATIC TERMS AND CONDITIONS

C.1 REPRESENTATIONS & WARRANTIES

The Recipient represents, warrants, and commits to the following as of the Eligible Work Start Date and continuing thereafter for the term of this Agreement, which shall be at least until the Records Retention End Date.

C.1.1 Application and General Recipient Commitments.

The Recipient has not made any untrue statement of a material fact in its application for this financial assistance, or omitted to state in its application a material fact that makes the statements in its application not misleading.

The Recipient agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents.

The Recipient agrees to fulfill all assurances, declarations, representations, and commitments in its application, accompanying documents, and communications filed in support of its request for funding under this Agreement.

The Recipient is in compliance with all State Water Board funding agreements to which it is a party.

C.1.2 Authorization and Validity.

The execution and delivery of this Agreement, including all incorporated documents, has been duly authorized by the Recipient. Upon execution by both parties, this Agreement constitutes a valid and binding obligation of the Recipient, enforceable in accordance with its terms, except as such enforcement may be limited by law.

C.1.3 No Violations.

The execution, delivery, and performance by Recipient of this Agreement, including all incorporated documents, do not violate any provision of any law or regulation in effect as of the date set forth on the first page hereof, or result in any breach or default under any contract, obligation, indenture, or other instrument to which Recipient is a party or by which Recipient is bound as of the date set forth on the Cover Page.

C.1.4 No Litigation.

There are no pending or, to Recipient's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency which materially affect the financial condition or operations of the Recipient, the Facility, and/or the Project.

There are no proceedings, actions, or offers by a public entity to acquire by purchase or the power of eminent domain the Facility or any of the real or personal property related to or necessary for the Project.

C.1.5 Property Rights.

The Recipient owns or has sufficient property rights in the Project property for the longer of the useful life or the term of this Agreement, either in fee simple or for a term of years that is not subject to third-party revocation during the useful life of the Facility.

C.1.6 Solvency and Insurance.

None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of Recipient. The Recipient is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. The Recipient is able to pay its debts as they become due. The Recipient maintains sufficient insurance coverage considering the scope of this Agreement, including, for example but not necessarily limited to, general liability, automobile liability, workers compensation and employer liability, professional liability.

C.1.7 Legal Status and Eligibility.

The Recipient is duly organized and existing and in good standing under the laws of the State of California. Recipient must at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority. The Recipient acknowledges that changes to its legal or financial status may affect its eligibility for funding under this Agreement and commits to maintaining its eligibility. Within the preceding ten years, the Recipient has not failed to demonstrate compliance with State or federal audit disallowances.

C.1.8 Financial Statements and Continuing Disclosure.

The financial statements of Recipient: (a) are materially complete and correct; (b) present fairly the financial condition of the Recipient; and (c) have been prepared in accordance with GAAP. Since the date(s) of such financial statements provided to the State Water Board, there has been no material adverse change in the financial condition of the Recipient, nor have any assets or properties reflected on such financial statements been sold, transferred, assigned, mortgaged, pledged or encumbered, except as previously disclosed in writing by Recipient and approved in writing by the State Water Board.

The Recipient is current in its continuing disclosure obligations associated with its material debt, if any.

C.1.9 No Other Material Obligations.

The Recipient has no Material Obligations other than those previously disclosed in writing to the State Water Board in connection with the Project.

C.2 DEFAULTS AND REMEDIES

In addition to any other remedy set forth in this Agreement, the following remedies are available under this Agreement.C.2.1 Return of Funds; Acceleration; and Additional Payments.

Notwithstanding any other provision of this Agreement, if the Division determines that an Event of Default has occurred, the Recipient may be required, upon demand, immediately to do each of the following:

- (a) return to the State Water Board any grant or principal forgiveness amounts received pursuant to this Agreement;
- (b) pay interest at the highest legal rate on all of the foregoing; and
- (c) pay any Additional Payments.

C.2.2 Judicial Remedies.

Whenever the State Water Board determines that an Event of Default shall have occurred, the State Water Board may enforce its rights under this Agreement by any judicial proceeding, whether at law or in equity. Without limiting the generality of the foregoing, the State Water Board may:

- (a) by suit in equity, require the Recipient to account for amounts relating to this Agreement as if the Recipient were the trustee of an express trust;
- (b) by mandamus or other proceeding, compel the performance by the Recipient and any of its officers, agents, and employees of any duty under the law or of any obligation or covenant under this Agreement; and
- (c) take whatever action at law or in equity as may appear necessary or desirable to the State Water Board, or to enforce performance of any obligation or covenant of the Recipient under this Agreement.

C.2.3 Termination.

Upon an Event of Default, the State Water Board may terminate this Agreement. Interest shall accrue on all amounts due at the highest legal rate of interest from the date that the State Water Board delivers notice of termination to the Recipient.

C.2.4 Damages for Breach of Tax-Exempt Status.

In the event that any breach of any of the provisions of this Agreement by the Recipient results in the loss of tax-exempt status for any bonds of the State or any subdivision or agency thereof, or if such breach results in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government by reason of any arbitrage profits, the Recipient must immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach.

C.2.5 Remedies and Limitations.

None of the remedies available to the State Water Board shall be exclusive of any other remedy, and each such remedy shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. The State Water Board may exercise any remedy, now or hereafter existing, without exhausting and without regard to any other remedy.

Any claim of the Recipient is limited to the rights and remedies provided to the Recipient under this Agreement and is subject to the claims procedures provided to the Recipient under this Agreement.

C.2.6 Non-Waiver.

Nothing in this Agreement shall affect or impair the Recipient's obligation to undertake work under this Agreement or shall affect or impair the right of the State Water Board to bring suit to enforce such work. No delay or omission of the State Water Board in the exercise of any right arising upon an Event of Default shall impair any such right or be construed to be a waiver of any such Event of Default. The State Water Board may exercise from time to time and as often as shall be deemed expedient by the State Water Board, any remedy or right provided by law or pursuant to this Agreement. Any waiver of rights by the State Water Board with respect to a default or other matter arising under this Agreement at any time shall not be considered a waiver of rights with respect to any other default or matter.

C.2.7 Status Quo.

If any action to enforce any right or exercise any remedy shall be brought and either discontinued or determined adversely to the State Water Board, then the State Water Board shall be restored to its former position, rights and remedies as if no such action had been brought.

C.3 STANDARD CONDITIONS

C.3.1 Access, Inspection, and Public Records.

The Recipient must ensure that the State Water Board, the Governor of the State, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times through the Records Retention End Date. The Recipient acknowledges that, except for a subset of information regarding archaeological records and personally identifiable information, the Project records and locations are public records including, but not limited to, all of the submissions accompanying the application, all of the documents incorporated into this Agreement by reference, and all reports, Reimbursement Requests, and supporting documentation submitted hereunder.

C.3.2 Accounting and Auditing Standards; Financial Management Systems; Records Retention.

- (a) The Recipient must maintain GAAP-compliant project accounts, including GAAP requirements relating to the reporting of infrastructure assets. Without limitation of the requirement to maintain Project accounts in accordance with GAAP, the Recipient must:
- (1) Establish an official file for the Project which adequately documents all significant actions relative to the Project;
 - (2) Establish separate accounts which will adequately and accurately depict all amounts received and expended on the Project, including all Project Funds received under this Agreement;
 - (3) Establish separate accounts which will adequately depict all income received which is attributable to the Project, specifically including any income attributable to Project Funds disbursed under this Agreement;
 - (4) Establish an accounting system which will accurately depict final total costs of the Project;
 - (5) Establish such accounts and maintain such records as may be necessary for the State to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations; and
 - (6) If Force Account is used by the Recipient for any phase of the Project, accounts will be established which reasonably document all employee hours charged to the Project and the associated tasks performed by each employee. Indirect Costs from Force Account are not eligible for funding.
- (b) The Recipient must maintain separate books, records and other material relative to the Project. The Recipient must also retain such books, records, and other material for itself and for each contractor or subcontractor who performed or performs work on this project for a minimum of thirty-six (36) years after Work Completion. The Recipient must require that such books, records, and other material are subject at all reasonable times (at a minimum during normal business hours) to inspection, copying, and audit by the State Water Board, the California Department of Finance, the California State Auditor, the Bureau of State Audits, the United States Environmental Protection Agency (USEPA), the Office of Inspector General, the Internal Revenue Service, the Governor, or any authorized representatives of the aforementioned. The Recipient must allow and must require its contractors to allow interviews during normal business hours of any employees who might reasonably have information related to such records. The Recipient agrees to include a similar duty regarding audit, interviews, and records retention in any contract or subcontract related to the performance of this Agreement. The provisions of this section survive the term of this Agreement.

C.3.3 Amendment.

No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by both the Recipient and the Deputy Director or designee.

C.3.4 Assignability.

This Agreement is not assignable by the Recipient, either in whole or in part, without the consent of the State Water Board in the form of a formal written amendment to this Agreement.

C.3.5 Audit.

The Division may call for an audit of financial information relative to the Project if the Division determines that an audit is desirable to assure program integrity or if an audit becomes necessary because of State or federal requirements. If an audit is called for, the audit must be performed by a certified public accountant independent of the Recipient and at the cost of the Recipient. The audit must be in the form required by the Division. The Recipient must return, or ensure the return of, any audit disallowances within 30 days.

C.3.6 Bonding.

Where contractors are used, the Recipient must not authorize construction to begin until each contractor has furnished a performance bond in favor of the Recipient in the following amounts: faithful performance (100%) of contract value; labor and materials (100%) of contract value. This requirement shall not apply to any contract for less than \$25,000.00.

C.3.7 Competitive Bidding

The Recipient must adhere to any applicable State law or local ordinance for competitive bidding and applicable labor laws.

[for private entities] If the Recipient is a private entity, any construction contracts related in any way to the Project must be let by competitive bid procedures which assure award of such contracts to the lowest responsive and responsible bidders. The Recipient must not award a construction contract until a summary of bids and identification of the selected lowest responsible bidder is submitted to and approved in writing by the Division. The Recipient must provide a full explanation if the Recipient is proposing to award a construction contract to anyone other than the lowest responsible bidder.

C.3.8 Compliance with Applicable Laws, Rules, and Requirements.

The Recipient must, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and State laws, rules, guidelines, regulations, and requirements. Without limitation of the foregoing, to the extent applicable, the Recipient must:

- (a) Comply with the provisions of the adopted environmental mitigation plan, if any, for the useful life of the Project;
- (b) Comply with the Guidelines; and

- (c) Comply with and require compliance with the State and federal requirements set forth elsewhere in this Agreement.

C.3.9 Computer Software.

The Recipient certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

C.3.10 Conflict of Interest.

The Recipient certifies that its owners, officers, directors, agents, representatives, and employees are in compliance with applicable State and federal conflict of interest laws and will remain in compliance for the useful life of the Facility. Public entities are required to have adopted conflict of interest codes and may be required to provide documentation of those codes to the Division.

C.3.11 Continuous Use of Project; No Lease, Sale, Transfer of Ownership, or Disposal of Project.

The Recipient agrees that, except as provided in this Agreement, it will not abandon, substantially discontinue use of, lease, sell, transfer ownership of, or dispose of all or a significant part or portion of the Facility during the useful life of the Facility without prior written approval of the Division. Such approval may be conditioned as determined to be appropriate by the Division, including a condition requiring repayment of all disbursed Project Funds or all or any portion of all remaining funds covered by this Agreement together with accrued interest and any penalty assessments that may be due.

C.3.12 Data Management.

The Recipient will undertake appropriate data management activities so that Project data can be incorporated into statewide data systems.

C.3.13 Disputes.

- (a) The Recipient may appeal a staff decision within thirty (30) days to the Deputy Director of the Division or designee, for a final Division decision. The Recipient may appeal a final Division decision to the State Water Board within thirty (30) days. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute.
- (b) This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the State Water Board, or any official or representative thereof, on any question of law.

- (c) The Recipient must continue with the responsibilities under this Agreement during any dispute.
- (d) This section relating to disputes does not establish an exclusive procedure for resolving claims within the meaning of Government Code sections 930 and 930.4.

C.3.14 Drug-Free Workplace.

The Recipient certifies that it will provide a drug-free workplace in compliance with the Drug-Free Workplace Act (Gov. Code. §§ 8350-8357). The Recipient shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the Recipient's workplace and specifying the actions to be taken against employees for violations of the prohibition. The Recipient shall establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace, the Recipient's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and penalties that may be imposed upon employees for drug abuse violations. The Recipient shall provide that every employee who works on the Project receives a copy of the Recipient's drug-free workplace policy statement and agrees to abide by the terms of the statement as a condition of employment on the Project.

C.3.15 Environmental Clearance.

No work that is subject to California Environmental Quality Act (CEQA) or National Environmental Policy Act (NEPA) may proceed under this Agreement until the State Water Board has provided approval to proceed. Upon receipt and review of the Recipient's environmental documents, the State Water Board shall make the appropriate environmental findings before determining whether to approve construction or implementation funding for the Project under this Agreement. Providing approval for such construction or implementation funding is fully discretionary. The State Water Board may require changes in the scope of work or additional mitigation as a condition to providing construction or implementation funding under this Agreement. The Recipient shall not perform any work subject to CEQA and/or NEPA before the State Water Board completes its environmental review and specifies any changes in scope or additional mitigation that may be required. Proceeding with work subject to CEQA and/or NEPA without approval by the State Water Board shall constitute a breach of a material provision of this Agreement. If this Project includes modification of a river or stream channel, the Recipient must fully mitigate environmental impacts resulting from the modification. The Recipient must provide documentation that the environmental impacts resulting from such modification will be fully mitigated considering all of the impacts of the modification and any mitigation, environmental enhancement, and environmental benefit resulting from the Project, and whether, on balance, any environmental enhancement or benefit equals or exceeds any negative environmental impacts of the Project.

C.3.16 Governing Law.

This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

C.3.17 Income Restrictions.

The Recipient agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Recipient related to this Agreement must be paid by the Recipient to the State Water Board, to the extent that they are properly allocable to costs for which the Recipient has been reimbursed by the State Water Board under this Agreement.

C.3.18 Indemnification and State Reviews.

The parties agree that review or approval of Project plans and specifications by the State Water Board is for administrative purposes only, including conformity with application and eligibility criteria, and expressly not for the purposes of design defect review or construction feasibility, and does not relieve the Recipient of its responsibility to properly plan, design, construct, operate, and maintain the Project. To the extent permitted by law, the Recipient agrees to indemnify, defend, and hold harmless the State Water Board, and any trustee, and their officers, employees, and agents (collectively, "Indemnified Persons"), against any loss or liability arising out of any claim or action brought against any Indemnified Persons from and against any and all losses, claims, damages, liabilities, or expenses, of every conceivable kind, character, and nature whatsoever arising out of, resulting from, or in any way connected with (1) the Facility or the Project or the conditions, occupancy, use, possession, conduct, or management of, work done in or about, or the planning, design, acquisition, installation, or construction, of the Facility or the Project or any part thereof; (2) the carrying out of any of the transactions contemplated by this Agreement or any related document; (3) any violation of any applicable law, rule or regulation, any environmental law (including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the California Hazardous Substance Account Act, the Federal Water Pollution Control Act, the Clean Air Act, the Toxic Substances Control Act, the Occupational Safety and Health Act, the Safe Drinking Water Act, the California Hazardous Waste Control Law, and California Water Code Section 13304, and any successors to said laws), rule or regulation or the release of any toxic substance on or near the Facility or the Project; or (4) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements required to be stated therein, in light of the circumstances under which they were made, not misleading with respect to any information provided by the Recipient for use in any disclosure document utilized in connection with any of the transactions contemplated by this Agreement, except those arising from the gross negligence or willful misconduct of the Indemnified Persons. The Recipient must also provide for the defense and indemnification of the Indemnified Persons in any contractual provision extending indemnity to the Recipient in any contract let for the performance of any work under this Agreement, and must cause the Indemnified Persons to be included within the scope of any provision for the indemnification and defense of the Recipient in any contract or subcontract. To the fullest extent permitted by law, the Recipient agrees to pay and discharge any judgment or award entered or made against Indemnified Persons with respect to any such claim or action, and any settlement, compromise or other voluntary resolution. The provisions of this section survive the term of this Agreement.

C.3.19 Independent Actor.

The Recipient, and its agents and employees, if any, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees, or agents of the State Water Board.

C.3.20 Integration.

This Agreement constitutes the complete and final agreement between the parties. No oral or written understanding or agreement not incorporated in this Agreement shall be binding on either party.

C.3.21 No Discrimination.

- (a) The Recipient must comply with Government Code section 11135 and the implementing regulations (Cal. Code Regs, tit. 2, § 11140 et seq.), including, but not limited to, ensuring that no person is unlawfully denied full and equal access to the benefits of, or unlawfully subjected to discrimination in the operation of, the Project or Facility on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation as such terms are defined under California law, for as long as the Recipient retains ownership or possession of the Project.
- (b) If Project Funds are used to acquire or improve real property, the Recipient must include a covenant of nondiscrimination running with the land in the instrument effecting or recording the transfer of such real property.
- (c) The Recipient must comply with the federal American with Disabilities Act of 1990 and implementing regulations as required by Government Code section 11135(b).
- (d) The Recipient's obligations under this section shall survive the term of this Agreement.
- (e) During the performance of this Agreement, the Recipient and its contractors and subcontractors must not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, sexual orientation, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family care leave, or genetic information, gender, gender identity, gender expression, or military and veteran status.
- (f) The Recipient, its contractors, and subcontractors must ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- (g) The Recipient, its contractors, and subcontractors must comply with the provisions of the Fair Employment and Housing Act and the applicable regulations promulgated thereunder. (Gov. Code, §12990, subs. (a)-(f) et seq.; Cal. Code Regs., tit. 2, § 7285 et seq.) Such regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

- (h) The Recipient, its contractors, and subcontractors must give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (i) The Recipient must include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

C.3.22 No Third Party Rights.

The parties to this Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or of any duty, covenant, obligation, or undertaking established herein.

C.3.23 No Obligation of the State.

Any obligation of the State Water Board herein contained shall not be an obligation, debt, or liability of the State, and any such obligation shall be payable solely out of the moneys encumbered pursuant to this Agreement.

C.3.24 Notice.

Upon the occurrence of any of the following events, the Recipient must notify the Division's Deputy Director and Project Manager by phone and email within the time specified below:

- (a) The Recipient must notify the Division within twenty-four (24) hours of any discovery of any potential tribal cultural resource and/or archaeological or historical resource. Should a potential tribal cultural resource and/or archaeological or historical resource be discovered during construction or Project implementation, the Recipient must ensure that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the Division has determined what actions should be taken to protect and preserve the resource. The Recipient must implement appropriate actions as directed by the Division.
- (b) The Recipient must notify the Division within five (5) business days of the occurrence of any of the following events:
 - (1) Bankruptcy, insolvency, receivership or similar event of the Recipient, or actions taken in anticipation of any of the foregoing;
 - (2) Change of ownership of the Project (no change of ownership may occur without written consent of the Division);
 - (3) Loss, theft, damage, or impairment to Project;
 - (4) Events of Default, except as otherwise set forth in this section;
 - (5) Failure to observe or perform any covenant or comply with any condition in this Agreement;

- (6) An offer from a public entity to purchase the Project or any portion thereof, or any of the real or personal property related to or necessary for the Project;
 - (7) A proceeding or action by a public entity to acquire the Project by power of eminent domain.
- (c) The Recipient must notify the Division in writing within ten (10) business days of any of the following events:
- (1) Any litigation pending or threatened with respect to the Project; the Recipient's technical, managerial or financial capacity to operate; or the Recipient's continued existence;
 - (2) Consideration of dissolution, or disincorporation;
 - (3) Adverse tax opinions, the issuance by the Internal Revenue Service or proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of any tax-exempt bonds;
 - (4) Enforcement actions by or brought on behalf of the State Water Board or Regional Water Board.
- (d) The Recipient must notify the Division promptly of any of the following events:
- (1) The discovery of a false statement of fact or representation made in this Agreement or in the application to the Division for this financial assistance, or in any certification, report, or Reimbursement Request made pursuant to this Agreement, by the Recipient, its employees, agents, or contractors;
 - (2) Any substantial change in scope of the Project. The Recipient must undertake no substantial change in the scope of the Project until prompt written notice of the proposed change has been provided to the Division and the Division has given written approval for the change;
 - (3) Cessation of any and all major construction work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more;
 - (4) Any circumstance, combination of circumstances, or condition, which is expected to or does delay Work Completion for a period of ninety (90) days or more;
 - (5) Any Project monitoring, demonstration, or other implementation activities required in this Agreement;
 - (6) Any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by State representatives with at least ten (10) working days' notice to the Division;

- (7) Any events requiring notice to the Division pursuant to any other provision of this Agreement;
- (8) Work Completion;
- (9) Project Completion;
- (10) The award of a prime construction contract for, or initiation of construction of, Item 6 in Exhibit A.1 (b), if applicable.

C.3.25 Operation and Maintenance; Insurance.

The Recipient agrees to sufficiently and properly staff, operate, and maintain all portions of the Facility during its useful life in accordance with all applicable State and federal laws, rules, and regulations. Unless expressly provided herein, the Recipient assumes all operations and maintenance costs of the facilities and structures; the State Water Board shall not be liable for any cost of such maintenance, management, or operation.

The Recipient will procure and maintain or cause to be maintained insurance on the Facility with responsible insurers, or as part of a reasonable system of self-insurance, in such amounts and against such risks (including damage to or destruction of the Project) as are usually covered in connection with systems similar to the Facility. Such insurance may be maintained by a self-insurance plan so long as such plan provides for (i) the establishment by the Recipient of a separate segregated self-insurance fund in an amount determined (initially and on at least an annual basis) by an independent insurance consultant experienced in the field of risk management employing accepted actuarial techniques, and (ii) the establishment and maintenance of a claims processing and risk management program.

In the event of any damage to or destruction of the Facility caused by the perils covered by such insurance, the net proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the Facility. The Recipient must begin such reconstruction, repair or replacement as expeditiously as possible, and must pay out of such net proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same must be completed and the Facility must be free and clear of all claims and liens.

The Recipient agrees that for any policy of insurance concerning or covering the construction of the Facility, it will cause, and will require its contractors and subcontractors to cause, a certificate of insurance to be issued showing the State Water Board, its officers, agents, employees, and servants as additional insured; and must provide the Division with a copy of all such certificates prior to commencement of construction if applicable.

C.3.26 Permits, Subcontracting, and Remedies.

The Recipient must procure all permits, licenses and other authorizations necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. Signed copies of any such permits or licenses must be submitted to the Division before any work or construction begins.

The Recipient must not contract or allow subcontracting with excluded parties. The Recipient must not contract with any party who is debarred or suspended or otherwise excluded from or

ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which this funding is authorized. For any work related to this Agreement, the Recipient must not contract with any individual or organization on the State Water Board's List of Disqualified Businesses and Persons that is identified as debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which funding under this Agreement is authorized. The State Water Board's List of Disqualified Businesses and Persons is located at http://www.waterboards.ca.gov/water_issues/programs/enforcement/fwa/dbp.shtml

C.3.27 Professionals.

The Recipient agrees that only licensed professionals will be used to perform services under this Agreement where such services are called for. All technical reports required pursuant to this Agreement that involve planning, investigation, evaluation, design, or other work requiring interpretation and proper application of engineering, architectural, or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to Business and Professions Code, sections 5536.1, 6735, 7835, and 7835.1. To demonstrate compliance with California Code of Regulations, title 16, sections 415 and 3065, all technical reports must contain a statement of the qualifications of the responsible registered professional(s). As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

C.3.28 Prevailing Wages.

If applicable, the Recipient agrees to be bound by all applicable provisions of State Labor Code regarding prevailing wages. If applicable, the Recipient must monitor all agreements subject to reimbursement from this Agreement to ensure that the prevailing wage provisions of the State Labor Code are being met. Division of Industrial Relations (DIR) requirements may be found at: <http://www.dir.ca.gov/lcp.asp>. For more information, please refer to DIR's Public Works Manual at: <http://www.dir.ca.gov/dlse/PWManualCombined.pdf>.

C.3.29 Public Funding.

This Project is publicly funded. Any service provider or contractor with which the Recipient contracts must not have any role or relationship with the Recipient, that, in effect, substantially limits the Recipient's ability to exercise its rights, including cancellation rights, under the contract, based on all the facts and circumstances.

C.3.30 Responsibility for Work.

The Recipient shall be responsible for all work and for persons or entities engaged in work performed pursuant to this Agreement including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The Recipient shall be responsible for responding to any and all disputes arising out of its contracts for work on the Project including, but not limited to payment disputes with contractors and subcontractors. The State Water Board will not mediate

disputes between the Recipient and any other entity concerning responsibility for performance of work.

C.3.31 Related Litigation.

Under no circumstances may the Recipient use funds from any disbursement under this Agreement to pay costs associated with any litigation the Recipient pursues against the State Water Board or any Regional Water Quality Control Board. Regardless of the outcome of any such litigation, and notwithstanding any conflicting language in this Agreement, the Recipient agrees to repay all of the disbursed funds plus interest in the event that Recipient does not complete the Project.

C.3.32 Rights in Data.

The Recipient agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Agreement are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Recipient may copyright the same, except that, as to any work which is copyrighted by the Recipient, the State reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so, and to receive electronic copies from the Recipient upon request. The Recipient may disclose, disseminate and use in whole or in part, any final form data and information received, collected, and developed under this Agreement, subject to appropriate acknowledgement of credit to the State Water Board for financial support. The Recipient shall not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so.

C.3.33 State Water Board Action; Costs and Attorney Fees.

Any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the State Water Board as a result of breach of this Agreement by the Recipient, whether such breach occurs before or after completion of the Project, and exercise of any remedy provided by this Agreement by the State Water Board shall not preclude the State Water Board from pursuing any legal remedy or right which would otherwise be available. In the event of litigation between the parties hereto arising from this Agreement, it is agreed that each party shall bear its own costs and attorney fees.

C.3.34 Timeliness.

Time is of the essence in this Agreement.

C.3.35 Unenforceable Provision.

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.

C.3.36 Venue.

Any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California.

C.3.37 Waiver and Rights of the State Water Board.

Any waiver of rights by the State Water Board with respect to a default or other matter arising under this Agreement at any time shall not be considered a waiver of rights with respect to any other default or matter. Any rights and remedies of the State Water Board provided for in this Agreement are in addition to any other rights and remedies provided by law.

C.4 MISCELLANEOUS STATE REQUIREMENTS

C.4.1 State Program Requirements for Proposition 68 Groundwater.

- (a) Remediation Costs Limited. (Pub. Resources Code, § 80141.) Project Funds shall not be used to pay any share of the costs of remediation recovered from parties responsible for the contamination of a groundwater storage aquifer, but may be used to pay costs that cannot be recovered from responsible parties. Parties that receive funding for remediating groundwater storage aquifers shall exercise reasonable efforts to recover the costs of groundwater cleanup from the parties responsible for the contamination. Funds recovered from responsible parties may only be used to fund treatment and remediation activities including operations and maintenance.
- (b) Groundwater Monitoring. (Wat. Code, § 10920.) The Recipient shall comply with Water Code section 10920 et seq., which requires groundwater monitoring and reporting of groundwater elevations.
- (c) Sustainable Groundwater Management Act (SGMA) Compliance. (Wat. Code, § 10720-10737.8.) To the extent required under SGMA, the Recipient shall comply with the following:
 - (1) If, after July 1, 2017, the Project is or will be located in a non-adjudicated high- or medium-priority California Statewide Groundwater Elevation Monitoring (CASGEM) basin, the Recipient shall ensure that a Groundwater Sustainability Agency (GSA) has formed or an alternative has been submitted to DWR. (Wat. Code, § 10735.2 (a)(1).)
 - (2) If, after January 31, 2020, the Project is or will be located in a non-adjudicated high- or medium CASGEM basin that is subject to critical conditions of overdraft, the Recipient shall ensure that the Project is consistent with an adopted Groundwater Sustainability Plan (GSP).
 - (3) If, after January 31, 2022, the Project is or will be located in a non-adjudicated high- or medium CASGEM basin that is not subject to critical conditions of overdraft, the Recipient shall ensure that the Project is consistent with an adopted GSP.

C.4.2 State Cross-Cutters.

Recipient represents that, as applicable, it complies and covenants to maintain compliance with the following for the term of the Agreement:

- (a) The California Environmental Quality Act (CEQA), as set forth in Public Resources Code 21000 et seq. and in the CEQA Guidelines at Title 14, Division 6, Chapter 3, Section 15000 et seq.
- (b) Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.
- (c) Monthly Water Diversion Reporting requirements, including requirements set forth in Water Code section 5103.
- (d) Public Works Contractor Registration with Department of Industrial Relations requirements, including requirements set forth in Sections 1725.5 and 1771.1 of the Labor Code.
- (e) Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.
- (f) Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Water Code, § 10610 et seq.).
- (g) Urban Water Demand Management requirements, including the requirements of Section 10608.56 of the Water Code.
- (h) Delta Plan Consistency Findings requirements, including the requirements of Water Code section 85225 and California Code of Regulations, title 23, section 5002.
- (i) Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.
- (j) Charter City Project Labor Requirements, including the requirements of Labor Code section 1782 and Public Contract Code section 2503.
- (k) Governor's Infrastructure Plan. (Gov. Code, § 13100.) The Recipient shall ensure that the Project shall maintain consistency with section 13100 of the Government Code (five -year infrastructure plan).
- (l) Groundwater Monitoring. (Wat. Code, § 10920.) The Recipient shall comply with Water Code section 10920 et seq., which requires groundwater monitoring and reporting of groundwater elevations.
- (m) The Recipient agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with directives or orders issued pursuant to Division 7 of the Water Code.

- (n) Union Activities. The Recipient hereby acknowledges the applicability of Government Code sections 16645 through 16649 to this Agreement. The Recipient certifies that none of the Project Funds will be used to assist, promote, or deter union organizing. If the Recipient incurs costs or makes expenditures to assist, promote, or deter union organizing, the Recipient will maintain records sufficient to show that no reimbursement from Project Funds has been sought for these costs and the Recipient shall provide those records to the Attorney General upon request.

EXHIBIT D – SPECIAL CONDITIONS

- D.1 If the Recipient recovers funds from any responsible parties, the Recipient shall immediately notify the Division. The amount of this Agreement may be reduced to reflect the recovered funds.
- D.2 The State Water Board shall not be responsible for any cost of maintenance, management, operation, or improvement of the Facility after the Work Completion Date. The Recipient shall be responsible for all operations and maintenance costs of the Facility for the remaining useful life.
- D.3 The Facility must be operational by December 31, 2021, unless the Division provides an extension(s) of up to 120 days for good cause. If this condition is not satisfied, funds will be withdrawn. No funds will be disbursed under this Agreement until this condition is satisfied.