

# APPENDIX 1.1

Grant Agreement No. 14-651-550

Dated October 2014

**WASTE DISCHARGE PERMIT FUND  
GRANT AGREEMENT  
BETWEEN THE  
STATE WATER RESOURCES CONTROL BOARD, hereinafter called "State" or "State Water Board"  
AND**

**ENVIRONMENTAL JUSTICE COALITION FOR WATER, ON BEHALF OF THE GREATER  
MONTEREY COUNTY REGIONAL WATER MANAGEMENT GROUP, hereinafter called "Grantee"**

**DEVELOPMENT OF AN INTEGRATED PLAN TO ADDRESS DRINKING WATER AND  
WASTEWATER NEEDS OF DISADVANTAGED COMMUNITIES IN THE SALINAS VALLEY, hereinafter  
called "Project"**

AGREEMENT NO. 14-651-550

WHEREAS:

1. Provision 2 of Item 3940-001-0193 of Section 2.00 of the Budget Act of 2014 provides that up to \$500,000 from the penalty revenues that are subject to separate accounting in accordance with subdivision (c) of Section 13264, subdivision (f) of Section 13268, subdivision (k) of Section 13350, and paragraph (2) of subdivision (n) of Section 13385 of the Water Code shall be available to support the Greater Monterey County Regional Water Management Group (GMCRWMG) in developing an integrated plan to address drinking water and wastewater needs of the disadvantaged communities in the Salinas Valley.
2. The Grantee may obtain funding for reasonable and necessary COSTS INCURRED on or after September 27, 2014 with all work to be completed by December 31, 2016; and
- A. PROJECT REPRESENTATIVES. The Project Representatives during the term of this Agreement will be:

<b>State Water Board</b>	<b>Grantee: Environmental Justice Coalition for Water, on Behalf of the Greater Monterey County Regional Water Management Group</b>
Name: Doug Wilson, Grant Manager	Name: Colin Bailey, Project Director
Address: 1001 "I" Street, 17 <sup>th</sup> Floor	Address: 909 12 <sup>th</sup> Street, Suite 200
City, Zip: Sacramento, CA 95814	City, Zip: Sacramento, CA 95814
Phone: (916) 341-5745	Phone: (916) 432-3529
Fax: (916) 341-5296	Fax: N/A
e-mail: <a href="mailto:Doug.Wilson@waterboards.ca.gov">Doug.Wilson@waterboards.ca.gov</a>	e-mail: <a href="mailto:colin@ejcw.org">colin@ejcw.org</a>

B. Direct all inquiries to:

<b>State Water Board</b>	<b>Grantee: Environmental Justice Coalition for Water, on Behalf of the Greater Monterey County Regional Water Management Group</b>
Section: Division of Financial Assistance	Section:
Attention: Anna Perez, Program Analyst	Name: Colin Bailey, Grant Contact
Address: 1001 "I" Street, 17 <sup>th</sup> Floor	Address: 909 12 <sup>th</sup> Street, Suite 200
City, Zip: Sacramento, CA 95814	City, Zip: Sacramento, CA 95814
Phone: (916) 341-5979	Phone: (916) 432-3529
Fax: (916) 341-5296	Fax: N/A
e-mail: <a href="mailto:Anna.Perez@waterboards.ca.gov">Anna.Perez@waterboards.ca.gov</a>	e-mail: <a href="mailto:colin@ejcw.org">colin@ejcw.org</a>

- C. Either party may make changes to the information above by giving written notice to the other party. Said changes should not require an amendment to this Grant agreement.

- D. The maximum amount payable under this agreement shall not exceed FIVE HUNDRED THOUSAND DOLLARS (\$500,000).
- E. In the event the Grantee receives or will receive funds from other sources for work completed under this Grant Agreement, the State Water Board reserves the right to request repayment of funds.

STANDARD PROVISIONS. The following exhibits are attached and made a part of this Agreement by this reference:

- Exhibit A SCOPE OF WORK
- Exhibit B INVOICING, BUDGET DETAIL AND REPORTING PROVISIONS
- Exhibit C GENERAL CONDITIONS

GRANTEE REPRESENTATIONS. The Grantee accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and commitments made by the Grantee in its application, accompanying documents, and communications filed in support of its request for grant funding. Grantee shall comply with and require its contractors and subcontractors to comply with all applicable laws, policies and regulations.

IN WITNESS THEREOF, the parties have executed this Agreement on the dates set forth below.

By: Colin Bailey  
Grantee Signature

Colin Bailey  
Grantee Typed/Printed Name

Project Director, 10/30/14  
Title and Date

By: Darrin Polhemus  
Darrin Polhemus, Deputy Director  
State Water Resources Control Board,  
Division of Financial Assistance

10/31/2014  
Date

Reviewed by: SMW  
Office of Chief Counsel  
Date: 10/29/2014

## EXHIBIT A SCOPE OF WORK

### BACKGROUND:

Disadvantaged communities (DACs) in the Salinas Valley region face widespread drinking water and wastewater challenges. The Grantee will prepare a plan to address these needs by investigating and developing solutions for disadvantaged communities that can be combined into the Integrated Regional Water Management (IRWM) planning efforts for the Greater Monterey County IRWM region. The purpose of this plan is to provide rural DACs with a safe, clean, and affordable potable water supply and effective, affordable wastewater treatment and disposal.

The Grantee will use grant funds from the Waste Discharge Permit Fund (WDPF) to make recommendations for planning, infrastructure, and other water management actions. The Grantee will make specific recommendations for regional drinking water treatment facilities, regional wastewater treatment facilities, conjunctive use sites and groundwater recharge, groundwater for surface water exchanges, related infrastructure, project sustainability, and cost-sharing mechanisms. The Grantee will identify projects and programs that will create long-term reliability, while optimizing the ongoing operation and maintenance (O&M) and management costs for small water and wastewater systems.

The Grantee will focus on the drinking water and wastewater needs of rural and unincorporated areas that meet the DAC definition by having a median household income (MHI) that is less than eighty percent (80%) of the statewide MHI. The Grantee's focus will include community water systems, wastewater systems, schools that provide their own drinking water or are served by a local water system, and rural communities with a high density of contaminated private wells.

### A. WORK TO BE PERFORMED BY GRANTEE

#### 1. Baseline Data Gathering

Develop a database of all DACs in the Salinas Valley, and produce a map of all gathered information.

##### 1.1 Collect Data and Create Database

Coordinate with local, state and federal agencies and other appropriate organizations to collect existing data and create a database that identifies DACs in the Salinas Valley. Relevant resources include United States Census and American Community Survey (ACS) data; relevant existing MHI data from the United States Department of Agriculture Office of Rural Development (USDA/RD), the State Water Board, the Central Coast Regional Water Quality Control Board, and the Monterey County Department of Health. Narrow down on areas that may be "hidden DACs," based upon information such as unemployment rate, to develop a baseline database for such communities. Conduct MHI surveys for DACs that lack current, documented MHI data. Define data outcomes, including but not limited to the following information:

- a. Community name and profile (population, connections, median household income, etc.)
- b. Identified water problems (i.e., drinking water wastewater)
- c. Location
- d. Community water or wastewater provider
- e. Community technical representative(s)

Create a protocol for the update and maintenance of the database throughout the life of the project.

##### 1.2 Data Mapping

Using Central Coast Conservation Action Tracker (<https://www.ccactiontracker.org/>), map the location of DACs in the Salinas Valley and other available and appropriate data in order to identify regional challenges and opportunities for regional projects.

- 1.3 Database Update and Maintenance  
Pursuant to protocol, update and maintain database for the duration of the project. Database information and updates will be made available to the State Water Board, Greater Monterey County IRWM planning groups, other agencies as requested, and to the general public.
  
2. Identify Drinking Water and Wastewater Problems
  - 2.1 Convene a Technical Advisory Committee (TAC)  
Establish a Salinas Valley-wide TAC comprised of regulatory and funding agency representatives, other organizations working on DAC water and wastewater needs, and community representatives (including water consumers and local water board members), as appropriate. This body will work with the project team and GMCRWGM members to identify plan priorities for the Salinas Valley, prioritize community water resource needs into tiers, help define project options for each community, and review draft and final recommendations. TAC meetings will occur on an approximately bi-monthly basis, and all meetings will be open to the public.
  - 2.2 Determine Priority Issues for the Salinas Valley  
TAC, with input from project team, DAC stakeholders, and the GMCRWGM, will take the lead in prioritizing the identified issues into tiers of "high," "medium," and "low" priority. TAC will determine the basis on which to prioritize the issues.
  - 2.3 Community Outreach  
Conduct individual meetings and outreach forums, as appropriate, with the identified DACs to gather information on technical, managerial, and financial capacity (TMF) and obtain community input in identifying drinking water and wastewater problems, needs, and concerns. This process will also serve to recruit community members for representation and/or input into the TAC. Create list of all issues associated with each DAC. The result of community outreach activities should be a comprehensive picture of drinking water and wastewater problems in DACs in the Salinas Valley. Input data into database and data map.
  
3. Identify Potential Solutions
  - 3.1 Identify Potential Solutions for each Disadvantaged Community  
In consultation with the TAC, stakeholders, and engineer consultants, identify potential solutions to the high and, to the extent possible, medium priority issues for each DAC, including consolidation options, regionalization, new infrastructure, legal entity formation, etc. This line item includes regionalization consultation with the communities. This line item may include analysis of land use and planning documents, and meeting with staff of affected jurisdictions and the Local Agency Formation Commission (LAFCO) of Monterey County.
  - 3.2 Work with Communities to Select Preferred Option(s)  
Work closely with community members and stakeholders (one-on-one meetings and community forums, as appropriate) to select the preferred option(s) for each community, in consultation with TAC and other technical consultants. The communities to be served must be involved in the development of any solutions to address their water and wastewater problems because they will have to live with the solutions potentially generated by this project. The communities must show support for the selected solution(s) and understand what will be needed to implement, operate, and maintain any solution to ensure that the recommendations will be successfully implemented.
  - 3.3 Recommendations  
Develop a list of recommendations for the individual DACs (including TMF), as well as potential regional solutions. Recommendations will include a funding analysis for communities with "high priority" problems.

4. Develop Project Proposals for Subset of High Priority Projects

4.1 Select Projects

In consultation with the TAC and other technical consultants, and with input from community representatives, select a subset of high priority projects for further development into proposals. The number of projects selected will depend on both the amount of funds needed to develop each project and the amount of funds available.

4.2 Develop Proposals

Develop scope of work, cost estimate, and general timeframe for each selected project. Identify potential funding sources for each project and recommend next steps to successfully implement each project. The goal is to undertake a set of project proposals that are ready to be put forward for funding.

5. Preparation and Finalization of the Plan

5.1 Preparation of Draft Plan

Consultant, in coordination with the rest of the project team, will prepare the draft "Salinas Valley Disadvantaged Community Integrated Drinking Water and Wastewater Plan" (Plan). The draft Plan will summarize the process and incorporate the results of the community outreach, along with a list of recommendations and a subset of proposals developed through the process, to be reviewed with the TAC before finalization.

In addition, because various state, federal, and local agencies are involved directly in the provision of drinking water and wastewater services or provide regulatory oversight of drinking water and wastewater systems, the draft Plan will be disseminated to the appropriate agencies for feedback and discussion of how the Plan can integrate, and be integrated into, existing and future operational, regulatory, planning, and funding processes.

5.2 Finalization of the Plan

The Grantee will incorporate suggestions from the consultant and the Stakeholder Oversight Committee's review of the draft Plan. The Grantee will also consider comments from the TAC, government agencies, and other interested parties. GMCRWVG will then approve the final Plan. The final Plan will provide specific recommendations, data, and projects that will be integrated into the Greater Monterey County IRWM Plan.

Once the Plan has been finalized and approved, it will be submitted to the State Water Board and to the Legislature. The final Plan will also be disseminated to other state, federal, and local agencies as appropriate.

**TABLE OF ITEMS FOR REVIEW**

Item	DESCRIPTION	CRITICAL DUE DATE	ESTIMATED DUE DATE
<b>EXHIBIT A – SCOPE OF WORK</b>			
A.	<b>WORK TO BE PERFORMED BY GRANTEE</b>		
1.	<b>Baseline Data Gathering</b>		
1.1	List of results		February 28, 2015
1.2	Data Map		February 28, 2015
1.3	Data Maintenance		As Needed through December 31, 2016
2.	<b>Identify Drinking Water and Wastewater Problems</b>		
2.1	List of TAC members, signup sheets, agenda and minutes		December 31, 2014
2.2	List of priority issues		July 31, 2015
2.3	List of DAC contacts, list of drinking water and wastewater Issues associated with each community, log of meetings, Agenda, minutes, and signup sheets		June 30, 2015
3.	<b>Identify Potential Solutions</b>		
3.1	List of community and regional solutions, consultants results		January 31, 2016
3.2	List of preferred community options		May 31, 2016
3.3	List of recommendations and funding analysis		July 31, 2016
4.	<b>Develop Project Proposals for Subset of High Priority Projects</b>		
4.1	List of projects to be develop		May 31, 2016
4.2	List of project proposals, funding sources, and recommended steps		September 15, 2016
5.1	Draft Plan		September 30, 2016
5.2	Final Plan		November 30, 2016
<b>EXHIBIT B – INVOICING, BUDGET DETAIL, AND REPORTING PROVISIONS</b>			
A.	<b>INVOICE PACKAGES</b>		
1.	Invoices		Monthly
E.	<b>REPORTS</b>		
1.	Progress Reports		Quarterly
2.	Draft Project Report	November 30, 2016	
3.	Final Project Report	December 31, 2016	

EXHIBIT B  
INVOICING, BUDGET DETAIL AND REPORTING PROVISIONS

A. INVOICE PACKAGES

1. No disbursement under this Grant Agreement will be made except upon receipt of an acceptable Standard Form Payment Request duly executed by or on behalf of the Grantee. The Grantee's duly authorized representative, who has been approved by the State Water Board, must execute all Payment Request forms. A Payment Request form must accompany all invoice packages. The original invoice packages shall be submitted to the State Water Board's Grant Manager on a monthly basis consistent with the reporting schedule in Line E (1) of this exhibit. The address for submittal is:  

Doug Wilson, Grant Manager  
State Water Resources Control Board  
Division of Financial Assistance  
P. O. Box 944212  
Sacramento, CA 94244-2120
2. Payment of any invoice shall be made only after receipt of a complete, adequately supported, properly documented and accurately addressed invoice. Invoices received by the State Water Board that are not consistent with the approved format will be cause for an invoice to be disputed. In the event of an invoice dispute, the State Water Board's Grant Manager will notify the Grantee by initiating an "Invoice Dispute Notification" form. Payment will not be made until the dispute is resolved and a corrected invoice submitted. Failure to use the address exactly as provided above may result in return of the invoice to the Grantee. Payment shall be deemed complete upon deposit of the payment, properly addressed, postage prepaid, in the United States mail. All invoices must be approved by the State Water Board's Grant Manager.
3. Notwithstanding any other provision of this Agreement, no disbursement shall be required at any time or in any manner which is in violation of or in conflict with federal or state laws, rules, or regulations, or which may require any rebates to the Federal Government, or any loss of tax-free status on state bonds, pursuant to any Federal statute or regulation.
4. The Grantee shall not request disbursement for any cost until such cost has been incurred and has been paid by or is due and payable by the Grantee. Although it is agreed that actual payment of such cost by the Grantee is not required as a condition of the grant disbursement, all grant disbursements received by the Grantee shall be paid to contractors and vendors within thirty (30) days from receipt of the funds. In the event that the Grantee fails to disburse grant funds to contractors or vendors within thirty (30) days from receipt of the funds, the Grantee shall immediately return such funds to the State Water Board. Interest shall accrue on such funds from the date of disbursement through the date of mailing of funds to the State Water Board. If the Grantee held such funds in interest-bearing accounts, any interest earned on the funds shall also be due to the State Water Board.
5. The invoice shall contain the following information:
  - a. The word "INVOICE" and a sequential invoice number should appear in a prominent location at the top of the page(s);
  - b. The date of the invoice and the time period covered by the invoice, i.e., the term "from" and "to";
  - c. Printed name of the consultant or contractor;
  - d. Business address of the consultant or contractor, including P.O. Box, City, State, and Zip Code;
  - e. Printed name of the Grantee;
  - f. The number of the Agreement upon which the invoice is based;
  - g. The site address (location) where the work was performed.

- h. All subcontractor(s) invoices must be listed on the invoice; a copy of the subcontractor invoice should be attached to the consultant/contractors invoice. All subcontractor(s) must have current and active professional licenses, as applicable.
  - i. Original signature and date (in ink) of Grantee or its authorized representative.
  - j. An itemized account of the work for which the Grantee is seeking payment:
    - A brief description of the work performed, including dates of performance and the name or initials of the person performing the work;
    - The method of computing the amount due. On cost reimbursable agreements, invoices must be itemized based on the tasks specified in the Budget.
    - The total amount due; this should be in a prominent location in the lower right-hand portion of the last page and clearly distinguished from other figures or computations appearing on the invoice; the total amount due shall include all costs incurred by the Grantee under the terms of this Agreement; and
6. Final invoice shall be clearly marked "FINAL INVOICE" and submitted NO LATER THAN JANUARY 31, 2017.
7. Remaining Balance. In the event the Grantee does not submit invoices requesting all of the funds encumbered under this Grant Agreement, any remaining funds revert to the State. The State Water Board will mail a Notice of Project Completion letter to the Grantee stating that the project file is closed, the final invoice is being processed for payment, and any remaining balance will be disencumbered and unavailable for further use under the Grant Agreement.

**B. BUDGET CONTINGENCY CLAUSE**

The maximum amount to be encumbered under this Agreement for the 2014-15 fiscal year ending June 30, 2015 shall not exceed FIVE HUNDRED THOUSAND DOLLARS (\$500,000).

If the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no force and effect. This provision shall be construed as a condition precedent to the obligation of the State Water Board to make any payments under this Agreement. In this event, the State shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Agreement and Grantee shall not be obligated to perform any provisions of this Agreement. Nothing in this Agreement shall be construed to provide the Grantee with a right of priority for payment over any other Grantee.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to Grantee to reflect the reduced amount.

**C. LINE ITEM BUDGET**

Description	Grant Allotment
Administration	\$75,000
Project Management	\$40,000
Data Gathering and Mapping	\$60,000
Identify Drinking Water and Wastewater Problems	\$117,600
Identify Potential Solutions	\$107,400
Develop Project Proposals	\$70,000
Preparation and Finalization of the Plan	\$30,000
<b>TOTAL</b>	<b>\$500,000</b>

#### D. BUDGET LINE ITEM FLEXIBILITY

1. Line Item Adjustment(s). Subject to the prior review and approval of the State Water Board's Grant Manager, adjustments between existing line item(s) may be used to defray allowable direct costs up to fifteen percent (15%) of the total grant amount including any amendment(s) thereto. Line item adjustments in excess of fifteen percent (15%) shall require a formal Agreement amendment.
2. Procedure to Request an Adjustment. Grantee may submit a request for an adjustment in writing to the State Water Board. Such adjustment may not increase or decrease the total grant amount allocated per fiscal year. The Grantee shall submit a copy of the original Agreement Budget sheet reflecting the requested changes. Changes shall be noted by striking the original amount(s) followed with revised change(s) in bold and underlined. Budget adjustments deleting a budget line item or adding a new budget line item requires a formal amendment and are not permissible under this provision. The State Water Board may also propose adjustments to the budget.
3. Remaining Balance. In the event the Grantee does not submit invoices requesting all of the funds encumbered under this Grant Agreement, any remaining funds revert to the State. The State Water Board will mail a Notice of Project Completion letter to the Grantee stating that the Project file is closed, the final invoice is being processed for payment, and any remaining balance will be disencumbered and unavailable for further use under the Grant Agreement.

#### E. REPORTS

1. PROGRESS REPORT. Grantee shall submit quarterly progress reports **in hard format or electronic copy** to the State Water Board's Grant Manager by the twentieth (20<sup>th</sup>) of the month following the end of the calendar quarter (March, June, September, and December).
  - a. The progress reports shall provide a brief description of the work performed, accomplishments during the quarter, milestones achieved, monitoring results (if applicable), and any problems encountered in the performance of the work under this Agreement. Grantee shall document all contractor activities and expenditures in progress reports.
2. DRAFT PROJECT REPORT. Prepare and submit to the Grant Manager a draft Project Report for review and comment.
3. FINAL PROJECT REPORT. Prepare a final Project Report that addresses, to the extent feasible, comments made by the Grant Manager on the draft final Project Report. Submit one (1) reproducible master, and an electronic copy of the final.
4. The Grantee agrees to expeditiously provide, during work on the Project and throughout the term of this Agreement, such reports, data, information, and certifications that may be reasonably required by the State Water Board.

#### F. PAYMENT OF PROJECT COSTS

The Grantee agrees that it will provide for payment of its full share of Project costs and that all costs connected with the Project will be paid by the Grantee on a timely basis.

#### G. AUDIT DISALLOWANCES

The Grantee agrees it shall return any audit disallowances to the State Water Board.

#### H. FRAUD AND MISUSE OF PUBLIC FUNDS

All invoices submitted shall be accurate and signed under penalty of perjury. Any and all costs submitted pursuant to this Agreement shall only be for the tasks set forth herein. The Grantee shall not submit any invoice 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 eligible costs for which the Grantee is

seeking reimbursement shall not be reimbursed from any other source. Double or multiple billing for time, services, or any other eligible cost is illegal and constitutes fraud. Any suspected occurrences of fraud, forgery, embezzlement, theft, or any other misuse of public funds may result in suspension of disbursements of grant funds and/or termination of this Agreement requiring the repayment of all funds disbursed hereunder. Additionally, the Deputy Director of the Division of Financial Assistance may request an audit pursuant to Exhibit C, paragraph 4 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. (Civ. Code, §§1572-1573; Pen. Code, §§470, 489-490.)

EXHIBIT C  
THE STATE WATER BOARD GENERAL CONDITIONS

1. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
2. **APPROVAL:** The Grantee will not proceed with any work on the Project until authorized in writing by the State Water Board.
3. **ASSIGNMENT:** This grant is not assignable by the Grantee, either in whole or in part, without the consent of the State Water Board.
4. **AUDIT:** Grantee agrees that the State Water Board, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the use of grant funds or performance of this Agreement. Grantee agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Grantee agrees to include a similar right of the State to audit records and interview staff in any contract related to performance of this Agreement.
5. **CHILD SUPPORT COMPLIANCE ACT:** Grantee acknowledges that it recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code. Grantee, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
6. **COMPLIANCE WITH LAW, REGULATIONS, ETC.:** The Grantee agrees that it will, 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. This includes, but is not limited to, compliance with any applicable requirements contained in directives or orders issued pursuant to Division 7 of the Water Code.
7. **RIGHTS IN DATA:** The Grantee 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 shall be in the public domain, except for secured water source location information. The Grantee 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 Grantee shall not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so.
8. **COMPUTER SOFTWARE:** The Grantee 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.
9. **CONFLICT OF INTEREST:** Grantee certifies that it is in compliance with applicable state and/or federal conflict of interest laws.
10. **DISPUTES:** The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, Grantee shall submit to the Deputy Director of the DFA a written demand for a final decision. The decision of the Division, or his or her authorized representative, shall be reduced to writing and a copy thereof furnished to the Grantee and to the State Water Board's Executive Director. The decision of the Division shall be final and conclusive unless, within thirty (30) calendar days of the date of the Division decision, the State Water Board's Executive Director receives a written appeal. The Grantee's written appeal shall be fully supported by any factual information Grantee desires to be considered in the decision. The

Executive Director's decision shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. Pending final decision of a dispute hereunder, the Grantee shall continue to fulfill and comply with all the terms, provisions, commitments, and requirements of this Agreement. 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.

11. **DRUG-FREE WORKPLACE REQUIREMENTS:** Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (commencing with Section 8350 of the Government Code) and will provide a drug-free workplace by taking the following actions:
  - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
  - b. Establish a Drug-Free Awareness Program to inform employees about:
    - 1) the dangers of drug abuse in the workplace,
    - 2) the organization's policy of maintaining a drug-free workplace,
    - 3) any available counseling, rehabilitation, and employee assistance programs, and
    - 4) penalties that may be imposed upon employees for drug abuse violations.
  - c. Every employee who works on the proposed project will:
    - 1) receive a copy of the organization's drug-free workplace policy statement, and
    - 2) agree to abide by the terms of the statement as a condition of employment on the project.

Failure to comply with these requirements may result in suspension of payments or termination of the grant or both, and Grantee may be ineligible for award of any future state grants if it is determined that any of the following has occurred: the Grantee has made false certification, or violated the certification by failing to carry out the requirements as noted above.
12. **DROUGHT EMERGENCY WATER CONSERVATION:** The Grantee agrees to comply with the State Water Board's Drought Emergency Water Conservation regulations in Section 863-865 of title 23 of the California Code of Regulations. The Grantee agrees to include a discussion of progress and compliance in reports submitted pursuant to this Agreement.
13. **FISCAL MANAGEMENT SYSTEMS AND ACCOUNTING STANDARDS:** The Grantee agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit tracing of grant funds to a level of expenditure adequate to establish that such funds have not been used in violation of state law or this Agreement. The Grantee further agrees that it will maintain separate Project accounts in accordance with generally accepted accounting principles.
14. **GOVERNING LAW:** This grant is governed by and shall be interpreted in accordance with the laws of the State of California.
15. **GRANT MODIFICATIONS:** The State Water Board may, at any time, without notice to any sureties, by written order designated or indicated to be a "grant modification", make any change in Exhibit A, for the work to be performed under this Agreement so long as the modified work is within the general scope of work called for by this Agreement, including but not limited to changes in the specifications or in the method, manner, or time of performance of work. If the Grantee intends to dispute the change, the Grantee must, within ten (10) days after receipt of a written "grant modification", submit to the State Water Board a written statement setting forth the disagreement with the change.
16. **GRANTEE'S RESPONSIBILITIES FOR WORK:** The Grantee shall be responsible for work and for persons or entities engaged in work, including, but not limited to, subcontractors, suppliers, and providers of services. The Grantee shall be responsible for any and all disputes arising out of its contracts for work on the Project.

The State will not mediate disputes between the Grantee and any other entity concerning responsibility for performance of work.

17. **INCOME RESTRICTIONS:** The Grantee agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Grantee under this Agreement shall be paid by the Grantee to the State, to the extent that they are properly allocable to costs for which the Grantee has been reimbursed by the State under this Agreement.
18. **INDEPENDENT ACTOR:** The Grantee, and its agents and employees, if any, in the performance of this Agreement, shall act in an independent capacity and not as officers of employees or agents of the state
19. **INSPECTION:** Throughout the term of this Agreement, the State Water Board shall have the right to inspect the project area to ascertain compliance with this Agreement.
20. **INSURANCE:** Throughout the life of the Project, the Grantee shall provide and maintain insurance against fire, vandalism and other loss, damage, or destruction of the facilities or structures constructed pursuant to this Agreement, if any. This insurance shall be issued by a company or companies admitted to transact business in the State of California. The insurance policy shall contain an endorsement specifying that the policy will not be cancelled or reduced in coverage without thirty days' prior written notice to the State Water Board. In the event of any damage to or destruction of the Project or any larger system of which it is a part, the net proceeds of insurance shall be applied to the reconstruction, repair or replacement of the damaged or destroyed parts of the Project or its larger system. The Grantee shall begin such reconstruction, repair, or replacement as expeditiously as possible and shall pay out of such net proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same shall be completed and the larger system shall be free of all claims and liens.
21. **NONDISCRIMINATION:** During the performance of this Project, the Grantee and its contractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, religion, color, national origin, ancestry, religious creed, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40) marital status, or denial of family-care leave. Grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. Grantee and its contractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this agreement by reference and made a part hereof as if set forth in full.

Grantee and its contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

Grantee shall include the nondiscrimination and compliance provisions of this clause in all contracts to perform work at this Project.

22. **NO THIRD PARTY RIGHTS:** The parties to this grant Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this grant Agreement, or of any duty, covenant, obligation or undertaken established herein.
23. **NOTICE:** The Grantee shall promptly notify the State Water Board of events or proposed changes that could affect the scope, budget, or work performed under this Agreement. The Grantee agrees that no substantial change in the scope of the Project will be undertaken until written notice of the proposed change has been provided to the State Water Board, and the State Water Board has given written approval for such change. The Grantee shall notify the State Water Board at least ten (10) working days prior to any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by the State Water Board's representatives. The Grantee shall promptly notify the State Water Board in writing of completion of work on the Project.

24. **OPERATIONS & MAINTENANCE:** The Grantee shall maintain and operate the facility and structures constructed or improved as part of the project throughout the term of this Agreement, consistent with the purposes for which this Grant was made. The Grantee 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.
25. **PAYEE DATA RECORD FORM (Std. 204).** The Grantee must complete the Payee Data Record Form.
26. **PERMITS, CONTRACTING, WAIVER, REMEDIES AND DEBARMENT:** The Grantee shall procure all permits and licenses 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. Any contractors, outside associates, or consultants required by the Grantee in connection with the services covered by this Agreement shall be limited to such individuals or firms as were specifically identified and agreed to during negotiations for this Agreement, or as are specifically authorized by the State Water Board's Grant Manager during the performance of this Agreement. Any substitutions in, or additions to, such contractors, associates, or consultants, shall be subject to the prior written approval of the State Water Board's Grant Manager. Any waiver of rights with respect to a default or other matter arising under the Agreement at any time by either party shall not be considered a waiver of rights with respect to any other default or matter. Any rights and remedies of the State provided for in this Agreement are in addition to any other rights and remedies provided by law. The Grantee shall not contract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension". The Grantee shall not contract with any individual or organization on USEPA's List of Violating Facilities. (40 CFR, Part 31.35; Gov. Code § 4477.) The Grantee certifies to the best of its knowledge and belief, that it and its principals:
- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or grantee;
  - b. Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification.
27. **PREVAILING WAGES AND LABOR COMPLIANCE:** If applicable, the Grantee agrees to be bound by all the provisions of State Labor Code regarding prevailing wages. If applicable, the Grantee shall monitor all agreements subject to reimbursement from this Agreement to assure that the prevailing wage provisions of State Labor Code are being met.
28. **RELATED LITIGATION:** Under no circumstances may a Grantee use funds from any disbursement under this Grant Agreement to pay costs associated with any litigation the Grantee pursues against the State Water Board or any Regional Water Board. Regardless of the outcome of any such litigation, and notwithstanding any conflicting language in this Agreement, the Grantee agrees to complete the Project funded by this Agreement or to repay all of the grant funds plus interest.
29. **STATE REVIEWS AND INDEMNIFICATION:** The parties agree that review or approval of Project applications, documents, permits, plans and specifications or other Project information by the State Water Board is for administrative purposes only and does not relieve the Grantee of its responsibility to properly plan, design, construct, operate, maintain, implement, or otherwise carry out the Project. To the extent permitted by law, the Grantee agrees to indemnify, defend and hold harmless the State Water Board and the State against any loss or liability arising out of any claim or action brought against the State Water Board and/or the State 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 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 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 California Hazardous Waste Control Law and California Water Code § 13304, and any successors to said laws), rule or regulation or the release of any toxic substance on or near the System; 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 Grantee for use in any disclosure document utilized in connection with any of the transactions contemplated by this Agreement. To the fullest extent permitted by law, the Grantee agrees to pay and discharge any judgment or award entered or made against the State Water Board and/or the State with respect to any such claim or action, and any settlement, compromise or other voluntary resolution. The provisions of this section shall survive the term of this Agreement.

30. **TERMINATION, IMMEDIATE REPAYMENT, INTEREST:** This Grant Agreement may be terminated by written notice at any time prior to completion of the Project, at the option of the State Water Board, upon violation by the Grantee of any material provision after such violation has been called to the attention of the Grantee and after failure of the Grantee to bring itself into compliance with the provisions of this Agreement within a reasonable time as established by the State Water Board. In the event of such termination, the Grantee agrees, upon demand, to immediately repay to the State Water Board an amount equal to the amount of grant funds disbursed to the Grantee prior to such termination. In the event of termination, interest shall accrue on all amounts due at the highest legal rate of interest from the date that notice of termination is mailed to the Grantee to the date of full repayment by the Grantee.
31. **TIMELINESS:** Time is of the essence in this Agreement. The Grantee shall proceed with and complete the Project in an expeditious manner.
32. **TRAVEL AND PER DIEM:** Any reimbursement for necessary travel and per diem shall be at rates not to exceed those set by the California Department of Human Resources. These rates may be found at <http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>. Reimbursement will be at the State travel and per diem amounts that are current as of the date costs are incurred by the Grantee. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the Grant Manager.
33. **URBAN WATER MANAGEMENT:** The Grantee certifies that this Project complies with the Urban Water Management Planning Act (Water Code, § 10610 et seq.). This shall constitute a condition precedent to this Agreement.
34. **WATER CONSERVATION AND EFFICIENCY PROGRAMS:** The Grantee acknowledges that it has appropriate water conservation and efficiency programs in place, and that this provision constitutes a condition of the grant award. A web link with examples of water conservation and efficiency programs is available at: [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/drought/conservation.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/conservation.shtml).
35. **WATER RIGHTS:** The Grantee certifies that it is in compliance with part 5.1 of division 2 of the Water Code and, if applicable, that it has filed and will continue to file its required Statements of Diversion and Use with the State Water Board in accordance with sections 5101 and 5103 of the Water Code.
36. **WITHHOLDING OF GRANT DISBURSEMENTS:** The State Water Board may withhold all or any portion of the grant funds provided for by this Agreement in the event that the Grantee has materially violated, or threatens to materially violate, any term, provision, condition, or commitment of this Agreement; or the Grantee fails to maintain reasonable progress toward completion of the Project.