

# APPENDIX 1.2

Grant Agreement No. D1611302

Dated June 2017

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 AND PILOT PROJECT TO ADDRESS DRINKING  
WATER AND WASTEWATER NEEDS OF DISADVANTAGED COMMUNITIES IN THE SALINAS  
VALLEY, hereinafter called "Project"

AGREEMENT NO. D1611302

WHEREAS:

1. Provision 4 of Item 3940-001-0001 of Section 2.00 of the Budget Act of 2016 provides that \$200,000 from the amount appropriated in Schedule (1) ["Water Quality"] shall be available to support the Greater Monterey County Regional Water Management Group (Group) in implementing a pilot project to address drinking water and wastewater needs of the disadvantaged communities (DACs) in the Salinas Valley.
2. The State Water Board determines eligibility for financial assistance, determines a reasonable schedule for providing financial assistance, establishes compliance with applicable law, and establishes the terms and conditions of a funding agreement.
3. The Group has authorized the Grantee to serve as the Group's fiscal sponsor and agent for the Project.
4. The Grantee has applied to the State Water Board for funding for the Project described in Exhibit A of this Agreement and the State Water Board has approved the application for funding.
5. The State Water Board proposes to assist in funding the costs of the Project, and the Grantee desires to participate as a recipient of financial assistance from the State Water Board, upon the terms and conditions set forth in this Agreement, all pursuant to applicable law.

NOW, THEREFORE, in consideration of the premises, mutual representations, covenants and agreements in this Agreement, the State Water Board and the Grantee, each binding itself, its successors, and assigns, do mutually promise, covenant, and agree as follows:

1. The Grantee may obtain funding for reasonable and necessary Project costs incurred on or after July 1, 2016 with all work to be completed by January 31, 2018.
  2. The maximum amount payable under this agreement shall not exceed TWO HUNDRED THOUSAND DOLLARS (\$200,000).
- A. PROJECT REPRESENTATIVES. The Project Representatives during the term of this Agreement will be:

|  |  |
|--|--|
| State Water Board                              | Grantee: Environmental Justice Coalition for Water, on Behalf of the Greater Monterey County Regional Water Management Group |
| Name: Alex Huang, 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) 341-5903                          | Phone: (916) 432-3529  |
| Fax: (916) 341-5296                            | Fax: N/A   |
| e-mail: Alex.Huang@waterboards.ca.gov          | e-mail: colin@ejcw.org   |

B. Direct all inquiries to:

|                   |  |  |  |
|-------------------|--|--|--|
| State Water Board |  | Grantee: Environmental Justice Coalition for Water, on Behalf of the Greater Monterey County Regional Water Management Group |  |
| Section:          | Division of Financial Assistance   | Section:   |  |
| Attention:        | Anna Perez, Program Analyst  | Name:  | Colin Bailey, Grant Contact                        |
| Address:          | 1001 I Street, 17th 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> |

Either party may make changes to the information in Sections A or B above by giving written notice to the other party. Said changes should not require an amendment to this Grant agreement.

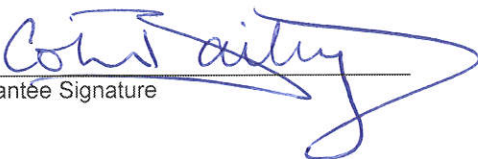
C. In the event the Grantee receives or will receive funds from other sources for work completed under this Grant Agreement, the State Water Board reserves the right to request repayment of funds.

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 TERMS AND 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:   
 \_\_\_\_\_  
 Grantee Signature

By:   
 \_\_\_\_\_  
 Leslie S. Laudon, Deputy Director  
 State Water Resources Control Board,  
 Division of Financial Assistance

Colin Bailey  
 \_\_\_\_\_  
 Grantee Typed/Printed Name

  
 \_\_\_\_\_  
 Date


Executive Director  
 \_\_\_\_\_  
 Title  
  
 \_\_\_\_\_  
 Date

EXHIBIT A  
SCOPE OF WORK

BACKGROUND:

Pursuant to State Water Board Grant Agreement No. 14-651-550 A-1, the Grantee prepared a draft "Integrated Plan to Address Drinking Water and Wastewater Needs of Disadvantaged Communities in the Salinas Valley and Greater Monterey County IRWM Region" (Plan). The purpose of the Plan is to provide rural DACs with a safe, clean, and affordable potable water supply and effective, affordable wastewater treatment and disposal. This will be accomplished by investigating and developing solutions that can be combined into the Integrated Regional Water Management (IRWM) planning efforts for the Greater Monterey County IRWM region. This Grant Agreement will allow the Grantee to finalize the Plan to address the widespread drinking water and wastewater challenges in the Salinas Valley DACs.

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. The Grantee will also provide outreach to these communities to engage them in the decision-making process. 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.

The Grantee has partnered with the Community Engineering Corps (CEC) and aided the CEC in authoring several design reports, which provide in-depth engineering and cost information about a community's existing water system. These design reports, in turn, allow the Grantee to make recommendations for planning, infrastructure, and other water management actions. The Grantee will make recommendations for regional drinking water treatment facilities, regional wastewater treatment facilities, related infrastructure, project sustainability, and cost-sharing mechanisms. The Grantee will also identify projects and programs that will create long-term reliability, while optimizing the ongoing operation, maintenance and management costs for small water and wastewater systems.

A. WORK TO BE PERFORMED BY GRANTEE

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 Schedule, prepare for, and participate in a minimum of eight (8) meetings with the Grantee's Project team. Submit agendas and meeting minutes to the Grant Manager.

2. Technical Advisory Committee (TAC)

- 2.1 Submit an updated list of members of the established TAC, with their organizational affiliation and title, to the Grant Manager.
- 2.2 Convene up to three (3) TAC meetings to discuss TAC comments on the CEC design reports, the draft Final Plan in Item 6.1, and the Final Plan in Item 6.2. Submit the responses to comments and meeting minutes to all the TAC members and the Grant Manager.

3. Mapping and Database

- 3.1 Launch a web-based geographic information system (GIS) mapping service for the public. Map the location of DACs in the Salinas Valley, along with other available and appropriate information

stored in the Project database, in order to identify challenges and opportunities throughout the region. Notify the TAC and the Grant Manager when the public site becomes available.

3.2 Update and maintain the existing Project database with new information, including but not limited to, data on newly identified water providers in the vicinity of known DACs and potential DACs. Submit a shapefile containing all data layers, or other comparable GIS overlay file, to the Grant Manager.

3.2.1 Submit water system/community assessments, contact lists, or additional water sampling results produced as part of the update process, as applicable, to the Grant Manager.

#### 4. Outreach

4.1 Conduct outreach activities to determine and bolster the level of understanding and support for long-term water or wastewater community-specific project proposals among residents, landowners, and other relevant stakeholders in or near high-priority community-specific project areas.

4.1.1 If outreach activities result in any changes to the established list of preferred community options for long-term water or wastewater solutions completed under State Water Board Grant Agreement No.14-651-550 A-1, submit an updated list of preferred community options to the Grant Manager.

#### 5. Proposal Development

5.1 Develop community-specific project proposals for a minimum of two (2) high priority communities in addition to the four (4) completed under State Water Board Grant Agreement No.14-651-550 A-1. Submit complete community-specific project proposals to the Grant Manager.

5.2 Update the existing community-specific project proposals originally completed under State Water Board Grant Agreement No.14-651-550 A-1 as necessary to reflect revisions to the corresponding CEC design reports. Standardize the content and formatting of existing proposals with the new proposals developed in Item 5.1. Submit revised CEC design reports, if applicable, and updated community-specific project proposals to the Grant Manager. The costs related to preparing and revising the CEC design reports are not funded under this agreement.

5.3 Support stakeholder involvement in Project development by exchanging information between communities and engineers, water purveyors, funding agencies, and the Project team.

#### 6. Final Plan

6.1 Develop a draft Final Plan and submit to the TAC and the Grant Manager for review and approval.

6.2 Finalize the Plan, which will provide specific recommendations, data, and community-specific project proposals for a minimum of six (6) high priority communities that will be integrated into the Greater Monterey County IRWM plan. Submit the Final Plan to stakeholders and the Grant Manager.

TABLE OF ITEMS FOR REVIEW

| ITEM  | DESCRIPTION   | CRITICAL DUE DATE | ESTIMATED DUE DATE |
|---|---|-------------------|--------------------|
| <b>EXHIBIT A – SCOPE OF WORK</b>                                      |   |                   |                    |
| A.  | WORK TO BE PERFORMED BY GRANTEE   |                   |                    |
| 1.  | Project Management  |                   |                    |
| 1.2   | Project Team Agendas and Meeting Minutes  |                   | Quarterly          |
| 2.  | Technical Advisory Committee (TAC)  |                   |                    |
| 2.1   | Updated List of TAC members   |                   | June 2017          |
| 2.2   | TAC Meeting Minutes and Responses to TAC Comments   |                   | Quarterly          |
| 3.  | Mapping and Database  |                   |                    |
| 3.1   | Notification of GIS Mapping Service Public Site   |                   | September 2017     |
| 3.2   | Shapefile or GIS Overlay File   |                   | September 2017     |
| 3.2.1   | Updated Water System/Community Assessments, Contact Lists, Water Sampling Results (if applicable)       |                   | September 2017     |
| 4.  | Outreach  |                   |                    |
| 4.1.1   | Updated List of Preferred Community Options (if applicable)   |                   | August 2017        |
| 5.  | Proposal Development  |                   |                    |
| 5.1   | New Community-Specific Project Proposals  |                   | September 2017     |
| 5.2   | Revised CEC Design Reports and Updates to Existing Community-Specific Project Proposals (if applicable) |                   | September 2017     |
| 6.  | Final Plan  |                   |                    |
| 6.1   | Draft Final Plan  | October 31, 2017  |                    |
| 6.2   | Final Plan  | December 31, 2017 |                    |
| <b>EXHIBIT B – INVOICING, BUDGET DETAIL, AND REPORTING PROVISIONS</b> |   |                   |                    |
| A.  | INVOICE PACKAGES  |                   |                    |
| 1.  | Invoices  |                   | Quarterly          |
| E.  | REPORTS   |                   |                    |
| 1.  | Progress Reports  |                   | Quarterly          |
| 2.  | Final Project Report  | December 31, 2017 |                    |

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 Invoice Form 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 invoice forms. An Invoice Form must accompany all invoice packages. The original invoice packages shall be submitted to the State Water Board's Grant Manager on a quarterly basis consistent with the reporting schedule in Section E.1 of this exhibit. The address for submittal is:

Alex Huang, Grant Manager  
State Water Resources Control Board  
Division of Financial Assistance  
1001 I Street, 17<sup>th</sup> Floor  
Sacramento, CA 95814

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". 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-exempt status of state bonds, pursuant to any Federal statute or regulation.
4. At the request of the Grant Manager, the Grantee shall provide proof of payment to its supplier, consultant, or contractor for each invoice submitted for payment under this Grant Agreement. If the grantee is not able to demonstrate proof of payment, the State Water Board, at its discretion, may issue two-party checks for the payment of costs under this Grant Agreement. The two-party checks will require the endorsement of both Grantee and the company providing the services.
5. Notwithstanding any other provision of this Grant Agreement, the Grantee agrees that the State Water Board may retain ten percent (10%) of the grant amount specified in this Agreement until completion of the Project to the reasonable satisfaction of the State Water Board. Any retained amounts due to the Grantee will be promptly disbursed to the Grantee, without interest, upon completion of the Project.
6. 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 license(s), 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; and
  - 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.

7. Final invoice shall be clearly marked "FINAL INVOICE" and submitted NO LATER THAN FEBRUARY 28, 2018.

8. 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 2016-17 fiscal year ending June 30, 2017 shall not exceed TWO HUNDRED THOUSAND DOLLARS (\$200,000).

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 this Agreement's funding for any fiscal year is reduced or deleted by the Budget Act, by Executive Order, or by order of the Department of Finance, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to the Grantee to reflect the reduced amount.

**C. LINE ITEM BUDGET**

| Description                        | Grant Allotment  |
|------------------------------------|------------------|
| Project Management                 | \$ 53,340        |
| Mapping and Database               | \$ 20,000        |
| Technical Advisory Committee (TAC) | \$ 7,155         |
| Outreach                           | \$ 31,800        |
| Proposal Development               | \$ 59,005        |
| Final Plan                         | \$ 28,700        |
| <b>TOTAL</b>                       | <b>\$200,000</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. The labor-related allotments in the Line Item Budget are based on the hours, classifications, and rates submitted by the Grantee in its application. Any changes to the hours, classifications, and rates must be approved, in advance and in writing, by the Grant Manager.
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 hardcopy or electronic format 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. FINAL PROJECT REPORT. The Grantee shall prepare and submit to the Grant Manager the Final Project Report as the final deliverable for activities funded under this agreement. The Final Project Report shall summarize the status of all tasks and activities identified in Exhibit A of this funding agreement, and shall be accompanied by all deliverables listed in the "Table of Items for Review" that the Grantee has not previously submitted to the Grant Manager.
3. 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  
GENERAL TERMS AND 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 or written understanding not incorporated in this Agreement is binding on any of the parties.
2. **ASSIGNMENT:** This grant is not assignable by the Grantee, either in whole or in part, without the prior written consent of the State Water Board.
3. **AUDIT AND RECORDS MAINTENANCE:** Grantee agrees that the State Water Board, the Bureau of State Audits, the Governor of the State, or the Internal Revenue Service, or any authorized representative of the foregoing 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.

The State Water Board's Division of Financial Assistance, at its option, may call for an audit of financial information relative to the Project, where the Division of Financial Assistance determines that an audit is desirable to assure program integrity or where such an audit becomes necessary because of state or federal requirements. Where such an audit is called for, the audit shall be performed by a certified public accountant independent of the Grantee and at the cost of the Grantee. The audit shall be in the form required by the Division of Financial Assistance.

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. The provisions of this section shall survive the term of this Agreement.

4. **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.
5. **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.
6. **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.
7. **CONFLICT OF INTEREST:** The Grantee certifies that it is in compliance with applicable state and/or federal conflict of interest laws.
8. **DISPUTES:** The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, Grantee may submit to the Deputy Director of the Division of Financial Assistance a written demand for a final decision. The decision of the Deputy Director, or his or her authorized representative, (Division decision) shall be reduced to writing and a copy thereof furnished to the Grantee and to the State Water Board's Executive Director. The Division decision shall be final and conclusive unless, within thirty (30) calendar days after the mailing of the Division decision, the Grantee mails or otherwise furnishes a written appeal of the Division decision to the State Water Board's Executive Director. 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 on the appeal 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. 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.

9. **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.

10. **DROUGHT EMERGENCY WATER CONSERVATION:** The Grantee agrees to comply with the State Water Board's Drought Emergency Water Conservation regulations in California Code of Regulations, title 23, division 3, chapter 2, article 22.5. The Grantee agrees to include a discussion of progress and compliance in reports submitted pursuant to this Agreement.
11. **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.
12. **GOVERNING LAW:** This grant is governed by and shall be interpreted in accordance with the laws of the State of California.
13. **GRANTEE OPERATION AND CHANGE OF BUSINESS:** Grantee shall not engage in or permit any of its subsidiaries to engage in, any business other than the businesses currently engaged in by Grantee and such subsidiaries, as applicable, or consummate any transaction that would result in a material change in its ownership. Grantee shall not, without at least thirty (30) days prior written notice to State Water Board and obtaining prior approval from the State Water Board: (a) relocate its chief executive office, or add any new offices or business locations, or (b) change its jurisdiction of organization, or (c) change its organizational structure or type, or (d) change its legal name, or (e) change any organizational number (if any) assigned by its jurisdiction of organization, or (f) merge or consolidate, or permit any of its subsidiaries to merge or

consolidate, with any other person or business entity. Grantee shall not fail to meet the minimum applicable funding requirements of Employee Retirement Income Security Act of 1974 (ERISA), permit a Reportable Event or Prohibited Transaction, each as defined in ERISA, to occur; fail to comply with the Federal Fair Labor Standards Act; or violate any other law or regulation.

14. **GRANTEE'S RESPONSIBILITIES FOR WORK:** The Grantee shall be responsible for 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 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.
15. **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.
15. **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 Water Board.
16. **INSPECTION:** The State Water Board, the Bureau of State Audits, or any authorized representative of the foregoing shall have the right to inspect the Project area at all reasonable times during Project implementation to ascertain compliance with this Agreement and its goals. The provisions of this section shall survive the term of this Agreement.
17. **INSURANCE:** The Grantee agrees to maintain sufficient insurance coverage considering the scope of this Agreement, including, for example, but not necessarily limited to, General Liability, Automobile Liability, Worker's Compensation and Employer's Liability, and Professional Liability.
18. **NONDISCRIMINATION:** During the performance of this Project, the Grantee and its contractors and subcontractors 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 (e.g., cancer), age (over 40), marital status, denial of family-care leave, genetic information, gender, gender identity, gender expression, or military and veteran status. Grantee and its contractors and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and its contractors and subcontractors shall comply with the applicable provisions of the Fair Employment and Housing Act (Government Code Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.), which 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.

19. **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 undertaking established herein.
20. **NOTICE:**
  - a. The Grantee shall notify the State Water Board prior to conducting construction, monitoring, demonstration, or other implementation activities such that State Water Board and/or Regional Water Board staff may observe and document such activities.
  - b. 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.

- c. 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.
  - d. The Grantee shall promptly notify the State Water Board in writing of completion of work on the Project.
21. OPERATIONS & MAINTENANCE: The Grantee agrees to sufficiently and properly staff, operate, and maintain all portions of the Project during its useful life, consistent with the purposes for which this Grant was made and in accordance with all applicable state and federal laws, rules, and regulations. The provisions of this section shall survive the term of this Agreement.
22. PAYEE DATA RECORD FORM (Std. 204). The Grantee must complete the Payee Data Record Form.
23. PERMITS, CONTRACTING, 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.

The Grantee shall not contract or allow subcontracting with any party who is debarred, 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 Grantee shall 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](http://www.waterboards.ca.gov/water_issues/programs/enforcement/fwa/dbp.shtml).

The Grantee certifies to the best of its knowledge and belief, that it and its principals:

- a. 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; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records; making false statements; or receiving stolen property;
  - b. 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 (a) of this certification; and
  - c. Have not within a three-year period preceding this Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.
24. 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.

25. **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.
26. **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, the Porter-Cologne Water Quality Control Act, the Federal and California Safe Drinking Water Acts, 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.
27. **STATE WATER BOARD ACTION, COSTS, AND ATTORNEY FEES:** The Grantee agrees that 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 Grantee, 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 filing costs and attorney fees.
28. **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.
29. **TIMELINESS:** Time is of the essence in this Agreement. The Grantee shall proceed with and complete the Project in an expeditious manner.
30. **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.

31. **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 shall continue to have full force and effect and shall not be affected thereby.
32. **URBAN WATER MANAGEMENT:** The Grantee certifies that the Project subject to this Grant Agreement complies with the Urban Water Management Planning Act (Water Code, § 10610 et seq.). This shall constitute a condition precedent to this Agreement.
33. **VENUE:** The State Water Board and the Grantee hereby agree that any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California, or in the United States District Court in and for the Eastern District of California. The Grantee hereby waives any existing sovereign immunity for the purposes of this Agreement.
34. **WAIVER AND RIGHTS OF THE STATE WATER BOARD:** 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.
35. **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).
36. **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.
37. **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 in the event that the Grantee fails to maintain reasonable progress toward completion of the Project.