

34926

**PUBLIC BEACH SAFETY
GRANT PROGRAM**

**CITY OF LONG BEACH
AND
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**



**GRANT
BEACH MONITORING
AGREEMENT NO. D1714103
GRANT FUNDS: \$100,000
ELIGIBLE START DATE: JULY 1, 2017
PROJECT COMPLETION DATE: JUNE 30, 2018
FINAL DISBURSEMENT REQUEST DATE: AUGUST 1, 2018
RECORDS RETENTION TERM END DATE: JUNE 30, 2025**

WHEREAS,

1. The State Water Board is authorized to provide funding under this Agreement pursuant to the following:
 - Water Code, § 13260, subd. (d)(2) – Waste Discharge Permit Fund (WDPF) – Public Beach Safety Grant Program
2. The State Water Board determines eligibility for financial assistance, determines a reasonable schedule for providing financial assistance, establishes compliance with state law, and establishes the terms and conditions of a funding agreement.
3. 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 selected the application for funding.
4. 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 state 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. Definitions

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

“Agreement” means this Grant Agreement, including all exhibits and attachments hereto.

“Authorized Representative” means the duly appointed representative of the Grantee as set forth in the certified original of the Grantee’s authorizing resolution that designates the Authorized Representative by title.

“Days” means calendar days unless otherwise expressly indicated.

“Disbursement Period” means the period during which Grant Funds may be disbursed.

“Disbursement Request” means the form used by the Grantee to request reimbursement of Project Costs.

“Division” means the Division of Financial Assistance of the State Water Board or any other segment of the State Water Board authorized to administer the funding program(s) set forth in this Agreement.

“Eligible Start Date” means the date set forth in Exhibit B, establishing the date on or after which reimbursable Project Costs may be incurred and eligible for reimbursement hereunder.

“Final Disbursement Request Date” means the date established in Exhibit B, after which date no further Grant Funds disbursements may be requested.

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

“Force Account” means the use of the Grantee’s own employees or resources for the Project.

“GAAP” means generally accepted accounting principles, as issued by the Governmental Accounting Standards Board.

"Grant Contact" means the employee of the Grantee that has been delegated by the Project Director to oversee the day-to-day activities of the Project.

"Grant Funds" means funds provided by the State Water Board towards eligible reimbursable Project Costs.

"Grant Manager" means the person designated by the State Water Board to manage performance of the Agreement. The Grant Manager is set forth in Section 2 of this Agreement.

"Grantee" means City of Long Beach.

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

"Party Contact" means, for the Grantee, the Authorized Representative of the Grantee or any designee of the Authorized Representative, and, for the State Water Board, the Grant Manager.

"Project" means the Project as described in Exhibit A and in the documents incorporated by reference.

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

"Project Completion Date" means the date set forth in Exhibit A that is the last date on which Project Costs may be incurred under this Agreement.

"Project Costs" means the incurred costs of the Grantee which are reasonable, necessary, and allocable by the Grantee to the Project under GAAP.

"Project Director" means an employee of the Grantee designated by the Authorized Representative to be responsible for the overall management of the administrative and technical aspects of the executed Agreement. The Project Director is set forth in Section 2 of this Agreement.

"Public Health Standard" means any public health standard, as set forth in Health and Safety Code sections 115875 through 115915 and California Code of Regulations title 17 sections 7952 through 7962.

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

"State" means State of California.

"State Water Board" means the California State Water Resources Control Board, an administrative and regulatory agency of the State of California.

"Year" means calendar year unless otherwise expressly indicated.

2. Party Contacts

The Party Contacts during the term of this Agreement are:

State Water Board		Grantee: City of Long Beach	
Section:	Division of Water Quality	Section:	
Name:	Mariela Carpio-Obeso, Grant Manager	Name:	Nelson Kerr, Project Director
Address:	1001 I Street, 15th Floor	Address:	2525 Grand Avenue
City, Zip:	Sacramento, CA 95814	City, Zip:	Long Beach, CA 90815
Phone:	(916) 341-5858	Phone:	(562) 570-4170
Fax:	(916) 341-5808	Fax:	(562) 570-4038
e-mail:	Marielapaz.carpio-obeso@waterboards.ca.gov	e-mail:	Nelson.kerr@longbeach.gov

Direct inquiries to:

State Water Board		Grantee: City of Long Beach	
Section:	Division of Financial Assistance	Section:	Bureau of Environmental Health
Attention:	Anna Perez, Program Analyst	Name:	Nelson Kerr, Grant Contact
Address:	1001 I Street, 17th Floor	Address:	2525 Grand Avenue
City, Zip:	Sacramento, CA 95814	City, Zip:	Long Beach, CA 90815
Phone:	(916) 341-5979	Phone:	(562) 570-4170
Fax:	(916) 341-5296	Fax:	(562) 570-4038
e-mail:	Anna.Perez@waterboards.ca.gov	e-mail:	Nelson.kerr@longbeach.gov

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

3. Exhibits and Appendices Incorporated

The following exhibits and appendices to this Agreement, including any amendments and supplements hereto, are hereby incorporated herein and made a part of this Agreement:

EXHIBIT A – SCOPE OF WORK

EXHIBIT B – FUNDING PROVISIONS

EXHIBIT C – STANDARD TERMS AND CONDITIONS

4. Representations, Warranties, and Commitments

The Grantee represents, warrants, and commits to the following as of the Eligible Start Date set forth in Exhibit B and continuing thereafter for the term of this Agreement:

- (a) **General Commitments.** 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 financial assistance and throughout the term of this Agreement.
- (b) **Authorization and Validity.** The execution and delivery of this Agreement, including all incorporated documents, has been duly authorized. This Agreement constitutes a valid and binding obligation of the Grantee, enforceable in accordance with its terms, except as such enforcement may be limited by law.

- (c) No Violations. The execution, delivery, and performance by the Grantee of this Agreement, including all incorporated documents, do not violate any provision of any law or regulation in effect as of the date set forth on the first page hereof, or result in any breach or default under any contract, obligation, indenture, or other instrument to which the Grantee is a party or by which the Grantee is bound as of the date set forth on the first page hereof.
- (d) No Litigation. There are no pending or, to the Grantee's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency which affect the financial condition or operations of the Grantee, and/or the Project.
- (e) Solvency. None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of the Grantee. As of the date set forth on the first page hereof, the Grantee is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. The Grantee is able to pay its debts as they become due.
- (f) Legal Status and Eligibility. The Grantee is duly organized and existing and in good standing under the laws of the State, and will remain so during the term of this Agreement. The Grantee shall at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority. The Grantee shall maintain its eligibility for funding under this Agreement for the term of this Agreement.
- (g) Good Standing. The Grantee is currently in compliance with the State requirements set forth in Exhibit C. Within the preceding ten years, the Grantee has not failed to demonstrate compliance with previous State audit disallowances.
- (h) Insurance. The Grantee maintains 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.
- (i) WDPF Requirements. The Grantee, its consultants, and contractors shall comply with the provisions of the WDPF and the applicable regulations promulgated thereunder (Cal. Water Code § 13260-13261 and § 13269). The applicable regulations of the Cal. Water Code § 13260-13261 and § 13269 are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

5. Project Completion

The Grantee shall expeditiously proceed with and complete the Project in accordance with this Agreement.

6. Notice

- (a) The Grantee shall notify the Division in writing within five (5) working days of the occurrence of the following:
 - 1. Bankruptcy, insolvency, receivership or similar event of the Grantee; or
 - 2. Actions taken pursuant to State law in anticipation of filing for bankruptcy.
- (b) The Grantee shall notify the Division within ten (10) working days of any litigation pending or threatened against the Grantee regarding its continued existence, consideration of dissolution, or reincorporation.
- (c) The Grantee shall notify the Division promptly of the following:

1. Any proposed change in the scope of the Project. Under no circumstances may the Grantee make changes to the scope of the Project without receiving prior review and approval by the Division. Most changes will require an amendment to this Agreement;
2. Cessation of work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more;
3. Any circumstance, combination of circumstances, or condition, which is expected to or does delay Project Completion by ninety (90) days or more beyond the estimated date of Project Completion previously provided to the Division;
4. Discovery of any potential archaeological or historical resource. Should a potential archaeological or historical resource be discovered during construction, the Grantee agrees that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the Division has determined what actions should be taken to protect and preserve the resource. The Grantee agrees to implement appropriate actions as directed by the Division;
5. Any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by State representatives with at least ten (10) working days' notice to the Division; or
6. Project Completion.

7. Project Access

The Grantee shall ensure that the State Water Board, the Governor of the State, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times for the term of the Agreement. The Grantee acknowledges that, except for a subset of information regarding archaeological records, the Project records and locations are public records including, but not limited to, all of the submissions accompanying the application, all of the documents incorporated by this Agreement and its exhibits, and all reports, Disbursement Requests, and supporting documentation submitted hereunder.

8. No Obligation of the State; State Budget Act Contingency

Any obligation of the State Water Board contained herein shall not be an obligation, debt, or liability of the State and any such obligation shall be payable solely out of the monies appropriated by the State Legislature to the State Water Board from the special fund associated with this Agreement.

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 the Grantee or to furnish any other considerations under this Agreement, and the 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 recipient or 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.

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

CITY OF LONG BEACH:

By: *P West*

Name: Patrick H. West

Title: City Manager

Date: 3/28/18

STATE WATER RESOURCES CONTROL BOARD:

By: *Leslie S. Laudon*

Name: Leslie S. Laudon

Title: Deputy Director
Division of Financial Assistance

Date: 4/12/18

APPROVED AS TO FORM

 3/23, 20 18
CHARLES PARKIN, City Attorney

By *Linda T. Vu*
LINDA T. VU
DEPUTY CITY ATTORNEY

EXHIBIT A – SCOPE OF WORK

A-1. Completion Date

The Project Completion Date is established as JUNE 30, 2018. Work occurring after the Project Completion Date, including corrective actions, is not eligible for reimbursement with Grant Funds.

A-2. Purpose

This grant is for the benefit of the Grantee. This grant is for the purpose of beach water monitoring and public notification.

A-3. Project-Specific Scope of Work

The Grantee agrees to do the following:

1. Project Management and Administration
 - 1.1 The Project Director shall promptly notify the Grant Manager of any event or proposed change that could affect the scope, budget, or schedule of work performed under this Agreement. Unless otherwise specified in the Agreement, all submittals shall be provided to both the Program Analyst and Grant Manager.
 - 1.2 Provide all technical and administrative services as necessary for Agreement completion, including: monitor, supervise, and review all work performed; and coordinate budgeting and scheduling to ensure that work is completed within budget, on schedule, and in accordance with approved procedures, applicable laws, and regulations.
 - 1.3 Ensure that the Agreement requirements are met through completion of quarterly progress reports as specified in Item A-5(a) of this Agreement. The Grantee is responsible for data being complete and accurate.
 - 1.4 Establish and/or maintain a telephone hotline and web-based forms of communication to inform the public of all public beaches currently closed, posted, or otherwise restricted within its jurisdiction. The Grantee shall update the telephone hotline and web-based forms of communication as needed to convey changes in public health risks.
2. Plans and General Compliance Requirements
 - 2.1 Prepare, maintain, and implement a Quality Management Plan (QMP) that contains the Standard Operating Procedures for sampling and monitoring activities and Quality Assurance (QA) procedures for data quality and evaluation that is in accordance with the State Water Board's Surface Water Ambient Monitoring Program (SWAMP) Quality Assurance Project Plan (QAPP) and data reporting requirements. Please submit to the State Water Board's Quality Assurance (QA) Officer and Grant Manager for review and approval prior to the Grantee implementing monitoring activities. The QA Officer's contact information and QMP preparation and SWAMP Comparability information can be found on the State Water Board's QA webpage at:
http://www.waterboards.ca.gov/water_issues/programs/quality_assurance/index.html
 - 2.2 Obtain all public agency approvals, entitlements, or permits required for project implementation before field work begins. If the Project is carried out on lands not owned by the Grantee, the Grantee must obtain adequate rights of way for the useful life of the Project.

3. Testing and Assessment

- 3.1 Test and assess the waters adjacent to all public beaches within the Grantee's jurisdiction at least weekly between April 1 to October 31 of each year in accordance with Public Health Standards. Additional testing and assessment may be authorized upon written approval of the Grant Manager.
- 3.2 Enter monitoring and notification data for all monitored sites to the State Water Board into the online Beach Watch Database at <http://beachwatch.waterboards.ca.gov/>. Update all program information including Water Body and Station GPS locations, sampling frequencies, seasonal timing, AB411 beach status, zero-point station status (when available), and other information as appropriate.
 - 3.2.1 Sampling result data and advisory (posting or closing) information shall be entered as soon as practicable, but no later than five (5) business days following receipt of sampling data.
- 3.3 Grantee's monitoring program must include sampling at point zero (e.g., all public beaches visited by more than fifty thousand (50,000) people annually and adjacent to storm drains where the drain/creek/river water enters the ocean), unless such sampling locations create unsafe situations or are already currently being sampled under other permit requirements.
 - 3.3.1 Submit a list to the Grant Manager of any "point zero" locations sampled by another entity under permit requirements or that are unsafe to sample.
- 3.4 In the event of a release of untreated sewage, the Grantee shall immediately test and assess the waters adjacent to any affected public beach in accordance with Public Health Standards.
 - 3.4.1 In the event of an untreated sewage release that is known to have reached recreational waters adjacent to a public beach, the Grantee shall immediately close those waters until it has been determined that the waters are in compliance with Public Health Standards.

4. Posting and Closing Beaches

- 4.1 If the testing and assessment performed in Item 3 above results in a determination that a Public Health Standard is being violated, the Grantee shall restrict the use of or close the public beach or a portion thereof in which the violation has occurred until the Public Health Standard is attained.
- 4.2 Investigate any complaint by a person of a violation of any Public Health Standard. If a violation of a Public Health Standard is found, the Grantee shall restrict the use of or close the public beach or a portion thereof until the Public Health Standard is attained.
 - 4.2.1 Report any violation of any Public Health Standard to the Grant Manager, the applicable Regional Water Quality Control Board and any appropriate local government agency official having jurisdiction over the land adjacent to the public beach where the violation has occurred.
- 4.3 Whenever a public beach is posted, closed, or otherwise restricted in accordance with this Agreement, the Grantee shall inform the public agency or entity responsible for the operation and maintenance of the public beach within twenty-four (24) hours of the posting, closure, or restriction.
- 4.4 Whenever a public beach is posted, closed, or otherwise restricted in accordance with this Agreement, the Grantee shall at a minimum, post the beach with conspicuous warning signs

to inform the public of the nature of the problem and the possible public health risk. A warning sign shall be visible from each primary beach access point as identified in the coastal access inventory prepared and updated pursuant to Public Resources Code section 30531, and any additional access points identified by the Grantee.

A-4. Disclosure

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

“Funding for this project has been provided in full or in part through an agreement with the State Water Board. The contents of this document do not necessarily reflect the views and policies of the State Water Board, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.” (Gov. Code, § 7550)

A-5. Reporting

(a) Progress Report. The Grantee shall submit quarterly progress reports, using a format provided by the Grant Manager, by the thirtieth (30th) of the month following the end of the calendar quarter (September and December 2017, March and June 2018) to the State Water Board’s Grant Manager.

1. The progress reports shall provide a brief description of the work performed, accomplishments during the quarter, milestones achieved, monitoring results, and any problems encountered in the performance of the work under this Agreement. The Grantee shall document all contractor and subcontractor activities and expenditures in progress reports. The description of activities and accomplishments of each task during the quarter shall be in sufficient detail to provide a basis for payment of invoices. Information to be provided shall include, but is not limited to:
 - i. the number and location of sampling stations monitored;
 - ii. the number of samples collected;
 - iii. the number of stations posted and/or closed;
 - iv. laboratory costs per sample; and,
 - v. any applicable public notification expenses; and,
 - vi. the web address, telephone number, and other methods of public communication
2. The invoice should accompany the progress report. The invoice should reflect charges for the work completed during the reporting period covered by progress report. The invoice cannot be paid prior to submission of a progress report covering the invoice reporting period.

(b) Final Project Summary. Prepare a brief summary including: (1) all of the information contained in the Progress Reports submitted; (2) estimated and actual costs of the Project, including a description and amount of any funds from sources other than this Agreement necessary to complete the Project; (3) any appropriate photos or graphics; and (4) any additional information deemed appropriate by the Project Director or Grant Manager. Submit an electronic copy of the Final Project Summary in pdf format to the Grant Manager.

(c) 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 or to fulfill any reporting requirements of the federal government.

A-6. Project Schedule

Failure to provide items by the due dates indicated in the Project Schedule below may constitute a material violation of this Agreement. However, the dates in the "Estimated Due Date" column of this Project Schedule may be adjusted as necessary during the Disbursement Period with Grant Manager approval. All work or submittals must be achieved with relevant submittals approved by the Division prior to the Project Completion Date, and the final Disbursement Request submitted prior to the Final Disbursement Request Date set forth in Exhibit B.

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
EXHIBIT A-3 PROJECT-SPECIFIC SCOPE OF WORK			
2.	Plans and General Compliance Requirements		
2.1	QAPP with QMP and SWAMP	Day 90 After Execution of Agreement	
2.2	Public Agency Approvals, Entitlements, Permits, or Landowner Agreement(s) (If Applicable)	Before Work Begins	
3.	Testing and Assessment		
3.2	Enter Monitoring and Notification Data, including any Updates to Program Information Including Water Body and Station GPS locations, Sampling Frequencies, Seasonal Timing, AB411 Beach Status, Zero-Point Station Status (When Available), and Other Information as Appropriate into State Water Board Online Beach Watch Database	Day 90 After Execution	
3.2.1	Enter Sampling Result Data and Advisory Information in Beach Watch Database	Within 5 Days of Received Sampling Results	
3.3.1	List of Any Point-Zero Locations Sampled by Another Entity Under Permit Requirements or that are Unsafe to Sample	April 1, 2018	
4.	Posting and Closing Beaches		
4.2.1	Notifications of Violations of Public Health Standard	Per Occurrence	
EXHIBIT A-5 REPORTING			
(a)	Progress Reports	Quarterly	
(b)	Final Project Summary	Before Final Invoice	

EXHIBIT B – FUNDING PROVISIONS

B-1. Project Funding

Subject to the terms of this Agreement, the State Water Board agrees to provide Grant Funds in the amount of up to ONE HUNDRED THOUSAND DOLLARS (\$100,000).

B-2. Estimated Reasonable Total Project Cost

The estimated reasonable cost of the total Project is ONE HUNDRED THOUSAND DOLLARS (\$100,000).

B-3. Funding Dates

- (a) The Eligible Start Date is JULY 1, 2017. Otherwise eligible costs incurred prior to this date will not be reimbursed.
- (b) The Final Disbursement Request Date is AUGUST 1, 2018. The Deputy Director of the Division may extend this date for good cause. Extensions may require an amendment to this Agreement. All Disbursement Requests must be submitted to the Division such that they are received prior to this date. Late Disbursement Requests will not be honored, and remaining amounts will be de-obligated.

B-4. Funding Conditions and Exclusions

The State Water Board's disbursement of funds hereunder is contingent on the Grantee's compliance with the terms and conditions of this Agreement.

B-5. Budget Summary

LINE ITEM	WDPF State Funds
Personnel Services	\$42,510
Actual Indirect Costs (Not to exceed 20%)	\$8,503
Operating Expenses: Travel , Sample Collection, Supplies	\$707
Laboratory Costs	\$48,280
TOTAL	\$100,000

B-6. Budget Flexibility

- (a) Subject to the prior review and approval of the Grant Manager, adjustments between existing line items may be used to defray allowable direct costs up to fifteen percent (15%) of the total amount, including any amendment(s) thereto. Line item adjustments in excess of fifteen percent (15%) require an Agreement amendment. Any changes to the hours, classifications, and rates must be approved, in advance and in writing, by the Grant Manager.
- (b) The Grantee may submit a request for an adjustment to the Line Item Budget in writing to the State Water Board. Such adjustment may not increase or decrease the total grant amount allocated. 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.

- (c) In the event the Grantee does not submit invoices requesting all of the funds encumbered under this 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.
- (d) The sum of adjusted line items shall not exceed the total budget amount.

B-7. Amounts Payable by the Grantee

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

B-8. Disbursement of Grant Funds

- (a) Except as may be otherwise provided in this Agreement, disbursement of Grant Funds will be made as follows:
 - (1) Upon execution and delivery of this Agreement, the Grantee may submit a Disbursement Request for eligible Project Costs as specified in this Exhibit from the Project Costs through submission to the State Water Board using the Disbursement Request form provided by the Grant Manager.
 - (2) Disbursement Requests shall contain the following information:
 - a. The date of the request;
 - b. The invoice number and State Water Board Agreement number;
 - c. The time period covered by the request, i.e., the term "from" and "to";
 - d. The total amount requested; and
 - e. Original signature and date (in ink) of the Grantee's Authorized Representative or his/her designee, including the Project Director.
 - f. Final invoice shall be clearly marked "FINAL INVOICE" and submitted NO LATER THAN AUGUST 1, 2018.
 - (3) Disbursement Requests must be itemized based on the line items specified in the budget in this Exhibit. Disbursement Requests must be signed by the Grantee's Authorized Representative or his/her designee, including the Project Director, and must be addressed to the Grant Manager as set forth in the Party Contacts section of this Agreement. Requests for disbursement submitted in any other format than the one provided by the State Water Board will cause a Disbursement Request to be disputed. In the event of such a dispute, the Grant Manager will notify the Grantee. Payment will not be made until the dispute is resolved and a corrected Disbursement Request submitted. The Grant Manager has the responsibility for approving Disbursement Requests. Disbursement Requests must be complete and signed by the Grantee's Authorized Representative or his/her designee, including the Project Director. Project Costs incurred prior to the Eligible Start Date of this Agreement will not be reimbursed.
 - (4) Grant Funds must be requested via Disbursement Request quarterly for eligible costs incurred during the reporting period of the corresponding Progress Report, describing the activities and expenditures for which the disbursement is being requested. Each

Disbursement Request must be accompanied by a Progress Report. Failure to provide timely Disbursement Requests may result in such requests not being honored.

- (5) The Grantee agrees that it will not submit any Disbursement Requests that include any Project Costs until such costs have been incurred and are currently due and payable by the Grantee; although, the actual payment of such costs by the Grantee is not required as a condition of the Disbursement Request. Supporting documentation (e.g., receipts) must be submitted with each Disbursement Request, if any. The amount requested for administration costs must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = total amount claimed). Disbursement of Grant Funds will be made only after receipt of a complete, adequately supported, properly documented and accurately addressed Disbursement Request.
- (6) The Grantee will not seek reimbursement of any Project Costs that have been reimbursed from other funding sources.
- (7) The Grantee shall use Grant Funds within thirty (30) days of receipt to reimburse contractors, vendors, and other Project Costs. Any interest earned on Grant Funds shall be reported to the State Water Board and will either be required to be returned to the State Water Board or deducted from future disbursements. In the event, the Grantee fails to disburse Grant Funds to contractors or vendors within thirty (30) days from receipt of the Grant Funds, the Grantee shall immediately return such Grant Funds to the State Water Board. Interest shall accrue on such Grant Funds from the date of disbursement through the date of mailing of Grant Funds to the State Water Board. If the Grantee held such Grant Funds in interest-bearing accounts, any interest earned on the Grant Funds shall also be due to the State Water Board.
- (8) The Grantee shall submit its final Disbursement Request no later than the Final Disbursement Request Date specified herein unless prior approval is granted by the Division. If the Grantee fails to do so, then the undisbursed balance of this Agreement will be de-obligated.
- (9) The Grantee agrees that it will not request a disbursement unless that cost is allowable, reasonable, and allocable.
- (10) Notwithstanding any other provision of this Agreement, no disbursement shall be required at any time or in any manner that is in violation of or in conflict with federal or state laws, policies, guidelines, or regulations.
- (11) The Grantee agrees that it shall not be entitled to interest earned on undisbursed Grant Funds.
- (12) 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 shall be reimbursed unless prior written authorization is obtained from the Grant Manager.
- (13) The Grantee must include any other documents or requests required or allowed under this Agreement.

B-9. Withholding of Disbursements and Material Violations

- (a) Notwithstanding any other provision of this Agreement, the Grantee agrees that the State Water Board may retain an amount equal to ten percent (10%) of the Grant Funds until

Project Completion. Any retained amounts due to the Grantee will be promptly disbursed to the Grantee, without interest, upon Project Completion.

- (b) The State Water Board may withhold all or any portion of the funds provided for by this Agreement in the event that:
1. The Grantee has materially violated, or threatens to materially violate, any term, provision, condition, or commitment of this Agreement; or
 2. The Grantee fails to maintain reasonable progress toward Project Completion.

B-10. Remaining Balance

In the event, the Grantee does not request all of the Grant Funds encumbered under this Agreement, any remaining Grant Funds revert to the State.

B-11. Fraud and Misuse of Public Funds

All Disbursement Requests 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 Disbursement Request containing costs that are ineligible or have been reimbursed from other funding sources. 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 Grant Funds disbursed hereunder. Additionally, the Deputy Director of the Division may request an audit and refer the matter to the Attorney General's Office or the appropriate district attorney's office for criminal prosecution or the imposition of civil liability. (Civ. Code, §§ 1572-1573; Pen. Code, §§ 470, 489-490.)

B-12. Accounting Standards and Federal Single Audit Act

The Grantee shall maintain GAAP-compliant Project accounts, including GAAP requirements relating to the reporting of infrastructure assets.

EXHIBIT C – STANDARD TERMS AND CONDITIONS

C-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 or agreement not incorporated in this Agreement is binding on any of the parties.

C-2. Assignability

This Agreement is not assignable by the Grantee, either in whole or in part, without written consent of the State Water Board.

C-3. Audit

(a) The Grantee agrees that the State Water Board, the Bureau of State Audits, the Governor of the State, or any authorized representative of the foregoing shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The Division, at its option, may call for an audit of financial information relative to the Project, where the Deputy Director of the Division determines that an audit is desirable to assure program integrity or where such an audit becomes necessary because of 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. The Grantee agrees to maintain such records for a possible audit for a minimum of seven (7) years after final payment, unless a longer period of records retention is stipulated. The 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, the 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 Grantee agrees it shall return any audit disallowances to the State Water Board.

(b) Failure to comply with audit disallowance provisions shall disqualify the Grantee from participating in State Water Board funding programs.

C-4. Claims

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

C-5. Compliance with Law, Regulations, etc.

The Grantee agrees that it will, at all times, comply with and require its consultants, contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements.

C-6. Computer Software

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

C-7. Conflict of Interest

The Grantee certifies that its owners, officers, directors, agents, representatives, and employees are in compliance with applicable state and federal conflict of interest laws.

Within thirty (30) days, the Grantee shall disclose to the State Water Board any potential conflict of interest consistent with section 4.0 and 7.0 of the USEPA's Final Financial Assistance Conflict of Interest Policy at <https://www.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. A conflict of interest may result in disallowance of costs.

C-8. Damages for Breach Affecting Federal Compliance

In the event that any breach of any of the provisions of this Agreement by the Grantee shall result in the failure of Grant Funds to be used pursuant to the provisions of this Agreement, or if such breach shall result in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government, the Grantee shall immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach.

C-9 Data Management

This Project includes appropriate data management activities so that Project data can be incorporated into appropriate statewide data systems.

C-10. Disputes

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

C-11. Financial Management System and Standards

The Grantee agrees to comply with federal standards for financial management systems. The Grantee agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit preparation of reports required by the federal or state government and tracking of Project Costs to a level of expenditure adequate to establish that such Grant Funds have not been used in violation of federal or state laws or the terms of this Agreement.

C-12. Governing Law

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

C-13. 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 Project Costs for which the Grantee has been reimbursed by the State under this Agreement.

C-14. Indemnification and State Reviews

The parties agree that review or approval of Project documents by the State Water Board is for administrative purposes only, including conformity with application and eligibility criteria, and expressly not for the purposes of design defect review or construction feasibility, and does not relieve the Grantee of its responsibility to properly plan, design, construct, operate, and maintain the Project. To the extent permitted by law, the Grantee agrees to indemnify, defend, and hold harmless the State Water Board, and its officers, employees, and agents (collectively, "Indemnified Persons"), against any loss or liability arising out of any claim or action brought against any Indemnified Persons from and against any and all losses, claims, damages, liabilities, or expenses, of every conceivable kind, character, and nature whatsoever arising out of, resulting from, or in any way connected with (1) the 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 Toxic Substances Control Act, the Occupational Safety and Health Act, the Safe Drinking Water Act, the California Hazardous Waste Control Law, and California Water Code Section 13304, and any successors to said laws), rule or regulation or the release of any toxic substance on or near the Project; or (4) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements required to be stated therein, in light of the circumstances under which they were made, not misleading with respect to any information provided by the 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 Indemnified Persons 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 and the discharge of the Grantee's obligation hereunder.

C-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, employees, or agents of the State Water Board.

C-16. Inspection

The Grantee agrees to ensure that the State Water Board, the Governor of the State, or any authorized representative of the foregoing, will have suitable access to the Project site at all reasonable times during Project implementation and thereafter for a minimum of three (3) years after final payment of Grant Funds. The Grantee acknowledges that the Project records and locations are public records.

C-17. Insurance

Throughout the term of this Agreement, the Grantee shall maintain a self-insurance program against fire, vandalism and other loss, damage, or destruction of the facilities or structures constructed pursuant to this Agreement, if any. Proof of such a program must be provided by the Grantee to the State Water Board. The Grantee shall notify the State Water Board in writing of any material amendment to the self-insurer's articles, charter, or agreement of incorporation, association or co-partnership which alters its coverage of the Project. 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.

The Grantee agrees that for any policy of general liability insurance concerning the construction related to this Project, it will cause, and will require its contractors and subcontractors to cause, a certificate of insurance to be issued showing the State Water Board, its officers, agents, employees, and servants as additional insured; and shall provide the Division with a copy of all such certificates prior to the commencement of construction associated with this Project.

C-18. Integration

This Agreement is the complete and final Agreement between the parties.

C-19. Non-Discrimination Clause

- (a) During the performance of this Agreement, 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, race, color, ancestry, religious creed, national origin, sexual orientation, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family care leave, or genetic information, gender, gender identity, gender expression, or military and veteran status.
- (b) The Grantee, 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.
- (c) The Grantee, its contractors, and subcontractors shall comply with the provisions of the Fair Employment and Housing Act and the applicable regulations promulgated thereunder. (Gov. Code, §12990, subs. (a)-(f) et seq.; Cal. Code Regs., tit. 2, § 7285 et seq.) Such regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.
- (d) The Grantee, its contractors, and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (e) The Grantee shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement. Failure by the Grantee to carry out these requirements and applicable requirements of 40 C.F.R. part 33 is a breach of a material provision of this Agreement, which may result in its termination.

C-20. No Third Party Rights

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

C-21. Permits; Contracting; Disqualification

The Grantee shall comply in all material respects with all applicable federal, state and local laws, rules and regulations. The Grantee shall procure all permits, licenses and other authorizations necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. Signed copies of any such permits or licenses shall be submitted to the Division before construction starts.

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, if any, 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.

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. The Grantee shall not contract with any party who is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension."

C-22. Prevailing Wages

The Grantee agrees to be bound by all applicable provisions of the State Labor Code regarding prevailing wages. The Grantee shall monitor all agreements subject to reimbursement from this Agreement to ensure that the prevailing wage provisions of the State Labor Code are being met.

C-23. Professionals

The Grantee agrees that only professionals with valid licenses in the State will be used to perform services under this Agreement where such services are called for. All technical reports required pursuant to this Agreement that involve planning, investigation, evaluation, design, or other work requiring interpretation and proper application of engineering, architecture, or geologic sciences shall be prepared by or under the direction of persons registered to practice in California. All technical reports must contain the statement of the qualifications of the responsible registered professional(s). Technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

C-24. Public Funding

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

C-25. Public Records

The Grantee acknowledges that, except for a subset of information regarding archaeological records, the Project records and locations are public records including, but not limited to, all of the submissions accompanying the application, all of the documents incorporated by reference into this Agreement, and all reports, disbursement requests, and supporting documentation submitted hereunder.

C-26. Public Records Act Notification

Upon receiving a request from any member of the public regarding information related to this Agreement, the State Water Board will notify the Grantee of such a request within three (3) working days. This notification provision does not apply to requests made by auditors, the Legislature, or other state or federal officials.

C-27. Grantee's Responsibility for Work

The Grantee shall be responsible for all work and for persons or entities engaged in work performed pursuant to this Agreement including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The Grantee shall be responsible for any and all disputes arising out of its

contracts for work on the Project, including but not limited to payment disputes with contractors and subcontractors. The State Water Board will not mediate disputes between the Grantee and any other entity concerning responsibility for performance of work.

C-28. Records

Without limitation of the requirement to maintain Project accounts in accordance with GAAP, the Grantee agrees to:

- (a) Establish an official file for the Project, which shall adequately document all significant actions relative to the Project.
- (b) Establish separate accounts, which will adequately and accurately depict all amounts received and expended on the Project, including all assistance funds received under this Agreement.
- (c) Establish separate accounts, which will adequately depict all income received which is attributable to the Project, specifically including any income attributable to assistance funds disbursed under this Agreement.
- (d) Establish an accounting system, which will accurately depict final total costs of the Project, including both direct and Indirect Costs.
- (e) Establish such accounts and maintain such records as may be necessary for the State to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations.
- (f) If a Force Account is used by the Grantee for the Project, accounts will be established which reasonably document all employee hours charged to the Project and the associated tasks performed by each employee. Indirect Force Account costs are not eligible for funding. This prohibition applies to the Grantee and any subcontract or sub-agreement for work on the Project that will be reimbursed with Grant Funds pursuant to this Agreement. (Gov. Code, § 16727.)
- (g) Maintain separate books, records, and other material relative to the Project.
- (h) Retain such books, records, and other material for itself and for each contractor or subcontractor who performed work on this Project for a minimum of seven (7) years after Project Completion. The Grantee shall require that such books, records, and other material be subject at all reasonable times (at a minimum during normal business hours) to inspection, copying, and audit by the State Water Board, the Bureau of State Audits, the Internal Revenue Service, the Governor, or any authorized representatives of the aforementioned, and shall allow interviews during normal business hours of any employees who might reasonably have information related to such records. The Grantee agrees to include a similar right regarding audit, interviews, and records retention in any subcontract related to the performance of this Agreement. The provisions of this section shall survive the term of this Agreement.

C-29. Related Litigation

The Grantee is prohibited from using Grant Funds to pay costs associated with any litigation the Grantee pursues. Regardless of whether the Project or any eventual related project is the subject of litigation, the Grantee agrees to complete the Project funded by the Agreement or to repay all Grant Funds plus interest to the State Water Board.

C-30. State Cross-Cutter Compliance

The Grantee represents and certifies that, to the extent applicable, it is in compliance with the following conditions precedent and agrees that it will continue to maintain compliance during the term of this Agreement:

- (a) Agricultural Water Management Plan Consistency. A Grantee that is an agricultural water supplier as defined by section 10608.12 of the Water Code must comply with the Agricultural Water Management Planning Act. (Wat. Code, § 10800 et seq.)
- (b) California Environmental Quality Act (CEQA). Implementation and construction activities must comply with CEQA. Upon receipt and review of the Grantee's CEQA documents, the State Water Board shall make its own environmental findings before determining whether to provide any construction funding under this Agreement. Providing environmental clearance and construction funding is discretionary. In the event that the State Water Board does not provide environmental clearance, no construction funding will be provided under this Agreement, all construction funds will be disencumbered, and this Agreement may be terminated. The State Water Board may require changes in the scope or additional mitigation as a condition to providing construction funding under this Agreement. The Grantee shall be prohibited from performing any construction activities prior to environmental clearance by the State Water Board, and the undertaking of any such construction activity will be considered a material breach of this Agreement.
- (c) Charter City Project Labor Requirements. (Labor Code, § 1782 and Pub. Contract Code, § 2503.)
 1. Prevailing Wage

Where the Grantee is a charter city or a joint powers authority that includes a charter city, the Grantee certifies that no charter provision nor ordinance authorizes a construction project contractor not to comply with the Labor Code's prevailing wage rate requirements, nor, within the prior two (2) years (starting from January 1, 2015, or after) has the city awarded a public works contract without requiring the contractor to comply with such wage rate requirements according to Labor Code section 1782.
 2. Labor Agreements

Where the Grantee is a charter city or a joint powers authority that includes a charter city, the Grantee certifies that no charter provision, initiative, or ordinance limits or constrains the city's authority or discretion to adopt, require, or utilize project labor agreements that include all the taxpayer protection antidiscrimination provisions of Public Contract Code section 2500 in construction projects, and that the Grantee is accordingly eligible for state funding or financial assistance pursuant to Public Contract Code section 2503.
- (d) Contractor and Subcontractor Requirements. (Labor Code, §§ 1725.5 and 1771.1.) To bid for public works contracts, the Grantee acknowledges that the Grantee and the Grantee's subcontractors must register with the Department of Industrial Relations.
- (e) Delta Plan Consistency Findings. (Wat. Code, § 85225 and Cal. Code of Regulations, title 23, § 5002.) If the Grantee is a state or local public agency and the proposed action is covered by the Delta Plan, the Grantee will submit a certification of project consistency with the Delta Plan to the Delta Stewardship Council prior to undertaking the implementation/construction project associated with this Project.

- (f) Eminent Domain Prohibited. (Wat. Code, § 79711.) Where land acquisition is otherwise authorized under this Agreement, Grant Funds shall not be used to acquire land via eminent domain.
- (g) Governor's Infrastructure Plan. (Gov. Code, § 13100.) The Grantee shall ensure that the Project shall maintain consistency with section 13100 of the Government Code (five-year infrastructure plan).
- (h) State Water Board's Drought Emergency Water Conservation regulations. (Cal. Code of Regulations, Title 23, article 22.5.) The Grantee will include a discussion of its implementation in Progress Reports submitted pursuant to this Agreement.
- (i) SBx7-7: Sustainable Water Use and Demand Reduction (Wat. Code, § 10608 et seq.). SBx7-7 conditions the receipt of a water management grant or loan for urban water suppliers on achieving gallons per capita per day reduction targets with the end goal of a twenty percent (20%) reduction by 2020. The Grantees that are urban water suppliers shall provide proof of compliance with SBx7-7.
- (j) Urban Water Demand Management. (Wat. Code, § 10631.5.) If the Grantee is an "urban water supplier" as defined by Water Code section 10617, the Grantee certifies that it is implementing water demand management measures approved by the Department of Water Resources.
- (k) Urban Water Management Planning Act. (Wat. Code, § 10610 et seq.) If the Grantee is an "urban water supplier" as defined by Water Code section 10617, the Grantee certifies that it has submitted an Urban Water Management Plan that has been deemed complete by the Department of Water Resources and is in compliance with that plan. This shall constitute a condition precedent to this Agreement.
- (l) Urban Water Supplier. (Wat. Code, §§ 526 and 527.) If the Grantee is an urban water supplier as defined by Water Code section 10617, it shall have complied and maintain compliance with sections 526 and 527 of the Water Code relating to installation of meters and volumetric charging.
- (m) Water Diverter. (Wat. Code, § 5103.) If the Grantee is a water diverter, the Grantee must maintain compliance by submitting monthly diversion reports to the Division of Water Rights of the State Water Board.
- (n) Water Quality Compliance. (Wat. Code, § 79707.) The Grantee shall ensure that the Project shall maintain consistency with Division 7 of the Water Code (commencing with section 13000) and Government Code section 13100.
- (o) Water Quality Monitoring. (Wat. Code, § 79704.) If water quality monitoring is required as part of the Project, the Grantee shall collect and report water quality monitoring data to the State Water Board in a manner that is compatible and consistent with surface water monitoring data systems or groundwater monitoring data systems administered by the State Water Board.
- (p) Wild and Scenic Rivers. (Wat. Code, § 79711.) The Grantee shall ensure that the Project will not have an adverse effect on the values upon which a wild and scenic river or any other river is afforded protections pursuant to the California Wild and Scenic Rivers Act or the federal Wild and Scenic Rivers Act.

C-31. 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 costs and attorney fees.

C-32. Termination; Immediate Repayment; Interest

- (a) This Agreement may be terminated at any time prior to the Project Completion Date set forth on the cover and in Exhibit B, at the option of the State Water Board, upon violation by the Grantee of any material provision of this Agreement 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 Division.
- (b) In the event of such termination, the Grantee agrees, upon demand, to immediately repay to the State Water Board an amount equal to Grant Funds disbursed hereunder, accrued interest, penalty assessments, and additional payments. 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 all monies due have been received by the State Water Board.

C-33. Timeliness

Time is of the essence in this Agreement. The Grantee shall proceed with and complete the Project in an expeditious manner.

C-34. Unenforceable Provision

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

C-35. 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.

C-36. Waiver and Rights of the State Water Board

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

C-37. 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. The Grantee also agrees to comply with the State Water Board's Drought Emergency Water Conservation regulations in sections 863-865 of title 23 of the California Code of Regulations. If applicable, the Grantee agrees to include a discussion of progress and compliance in its reports submitted pursuant to Exhibit B of this Agreement.

C-38. Water Rights

The Grantee acknowledges that its eligibility for this Grant award is conditioned on its compliance with Water Code section 5103(e)(1), if applicable. The Grantee further certifies that it is not required to file a Statement of Diversion and Use pursuant to Water Code section 5101.