



**PROPOSITION 1  
STORM WATER**

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CITY OF ARROYO GRANDE

AND

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD



PLANNING GRANT

STORM WATER PLANNING

STORM WATER RESOURCE PLAN FOR FIVE CITIES AREA

AGREEMENT NO. D1612607

GRANT FUNDS: \$189,140

ELIGIBLE START DATE: MARCH 1, 2017

WORK COMPLETION DATE: JANUARY 31, 2019

FINAL DISBURSEMENT REQUEST DATE: FEBRUARY 28, 2019

RECORDS RETENTION TERM END DATE: JANUARY 31, 2055

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WHEREAS,

1. The State Water Board is authorized to provide funding under this Agreement pursuant to the following:

Proposition 1 Storm Water - Section 79747 of the Water Code (Prop 1)

2. The State Water Board determines eligibility for financial assistance, determines a reasonable schedule for providing financial assistance, establishes compliance with Prop 1, and establishes the terms and conditions of a funding agreement.
3. The Recipient 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 through a competitive process.
4. The State Water Board proposes to assist in funding the costs of the Project, and the Recipient 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 Prop 1.

NOW, THEREFORE, in consideration of the premises, mutual representations, covenants and agreements in this Agreement, the State Water Board and the Recipient, 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 Recipient as set forth in the certified original of the Recipient’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 Recipient to document Match Funds and 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 Recipient’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 Recipient 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.

“Guidelines” means the State Water Board’s “Proposition 1 Storm Water Grant Program Guidelines,” as amended from time to time.

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

“Match Funds” means funds provided by the Recipient towards the Project Costs incurred after November 4, 2014.

“Party Contact” means, for the Recipient, the Authorized Representative of the Recipient or any designee of the Authorized Representative, and, for the State Water Board, the Grant Manager, or the Program Analyst.

“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 Costs” means the incurred costs of the Recipient which are eligible under this Agreement, which are allowable costs as defined under the Guidelines, and which are reasonable, necessary and allocable by the Recipient to the Project under GAAP.

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

“Recipient” means City of Arroyo Grande.

“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.

“SWRP Guidelines” means the State Water Resources Control Board’s “Storm Water Resource Plan Guidelines” as amended from time to time.

“Work Completion” means the Recipient’s submittal of all work set forth under Exhibit A for review and approval by the Division. The Division may require corrective work to be performed prior to Project Completion. Any work occurring after the Work Completion Date will not be reimbursed under this Agreement.

“Work 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.

“Year” means calendar year unless otherwise expressly indicated.

2. Party Contacts

The Party Contacts during the term of this Agreement are:

<b>State Water Board</b>	<b>Recipient:</b> City of Arroyo Grande
Section: Division of Financial Assistance	Section:
Name: Kelley List, Grant Manager	Name: Teresa McClish, Project Director
Address: 1001 I Street, 17 <sup>th</sup> Floor	Address: 300 E Branch Street
City, State, Sacramento, CA 95814	City, State, Arroyo Grande, CA 93420
Zip:	Zip:
Phone: (916) 319-9226	Phone: (805) 473-5422
Fax: (916) 341-5296	Fax: (805) 473-5462
e-mail: <a href="mailto:Kelley.List@waterboards.ca.gov">Kelley.List@waterboards.ca.gov</a>	e-mail: <a href="mailto:tmcclish@arroyogrande.org">tmcclish@arroyogrande.org</a>

Direct inquiries to:

<b>State Water Board</b>	<b>Recipient:</b> City of Arroyo Grande
Section: Division of Financial Assistance	Section:
Attention: Carolyn Saputo, Program Analyst	Name: Patrick Holub, Grant Contact
Address: 1001 I Street, 17 <sup>th</sup> Floor	Address: 300 E Branch Street
City, State, Sacramento, CA 95814	City, State, Arroyo Grande, CA 93420
Zip:	Zip:
Phone: (916) 341-5784	Phone: (805) 473-5443
Fax: (916) 341-5296	Fax: (805) 473-5462
e-mail: <a href="mailto:Carolyn.Saputo@waterboards.ca.gov">Carolyn.Saputo@waterboards.ca.gov</a>	e-mail: <a href="mailto:pholub@arroyogrande.org">pholub@arroyogrande.org</a>

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

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. Recipient Representations and Commitments

The Recipient 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 the Agreement:

- (a) **General Commitments.** The Recipient 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 Recipient 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 Recipient, enforceable in accordance with its terms, except as such enforcement may be limited by law.
- (c) **No Violations.** The execution, delivery, and performance by Recipient of this Agreement, including all incorporated documents, do not violate any provision of any law or regulation in effect as of the date set forth on the first page hereof, or result in any breach or default under any contract, obligation, indenture, or other instrument to which Recipient is a party or by which Recipient is bound as of the date set forth on the first page hereof.
- (d) **No Litigation.** There are no pending or, to Recipient's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency which affect the financial condition or operations of the Recipient, 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 Recipient. As of the date set forth on the first page hereof, Recipient is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. Recipient is able to pay its debts as they become due.
- (f) **Legal Status and Eligibility.** Recipient is duly organized and existing and in good standing under the laws of the State of California, and will remain so during the term of this Agreement. Recipient shall at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority. Recipient shall maintain its eligibility for funding under this Agreement for the term of this Agreement.
- (g) **Good Standing.** The Recipient is currently in compliance with the state requirements set forth in Exhibit C. Within the preceding ten years, the Recipient has not failed to demonstrate compliance with previous state audit disallowances.
- (h) **Insurance.** Recipient 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, Professional Liability.

#### 5. Project Completion

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

6. Notice

- (a) The Recipient 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 Recipient; or
  - (2) Actions taken pursuant to state law in anticipation of filing for bankruptcy.
- (b) The Recipient shall notify the Division within ten (10) working days of any litigation pending or threatened against Recipient regarding its continued existence, consideration of dissolution, or disincorporation;
- (c) The Recipient shall notify the Division promptly of the following:
  - (1) Any proposed change in the scope of the Project. Under no circumstances may the Recipient 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 Work Completion;
  - (4) Any monitoring activities such that the State Water Board Division of Drinking Water and/or Regional Water Quality Control Board staff may observe and document such activities;
  - (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) Work Completion and Project Completion.

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

Any obligation of the State Water Board herein contained shall not be an obligation, debt, or liability of the State and any such obligation shall be payable solely out of the moneys 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 Recipient or to furnish any other considerations under this Agreement and Recipient shall not be obligated to perform any provisions of this Agreement. Nothing in this Agreement shall be construed to provide the Recipient with a right of priority for payment over any other recipient. 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 Recipient to reflect the reduced amount.

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

**CITY OF ARROYO GRANDE:**

By:  \_\_\_\_\_  
Name: James A. Bergman  
Title: City Manager

Date: 9.20.2017

**STATE WATER RESOURCES CONTROL BOARD:**

By:  \_\_\_\_\_  
Name: Leslie S. Laudon  
Title: Deputy Director  
Division of Financial Assistance

Date: 9/26/17

## EXHIBIT A – SCOPE OF WORK

### A-1. Completion Date

The Work Completion Date is established as JANUARY 31, 2019. Work occurring after the Work Completion Date, including corrective actions, is not eligible for reimbursement with Grant Funds and cannot be paid for using Match Funds.

### A-2. Purpose

This grant is for the benefit of the Recipient. This grant is for the purpose of preparing components of the San Luis Obispo County (County) Region-wide Functionally Equivalent Storm Water Resource Plan (FE-SWRP) that is compliant with the State Water Board's SWRP Guidelines adopted December 15, 2015, and the California Water Code Section 10561-10573. The Recipient and the County will collaborate to develop the Region-wide FE-SWRP using the regional boundaries outlined in the County's Integrated Regional Water Management (IRWM) Plan and combine the work completed in this Agreement with Task 12 of the County's Department of Water Resources (DWR) IRWM Planning Grant (Agreement No. 4600011892). The Recipient and County will incorporate the approved FE-SWRP into the IRWM Plan as required by the Water Code. The Recipient's receipt of funding under this Agreement is not a commitment to and does not obligate the State Water Board to provide funding for any eventual construction/implementation project.

### A-3. Project-Specific Scope of Work

The Recipient agrees to do the following:

#### 1. Project Management

- 1.1 Provide all technical and administrative services as needed for Project Completion; monitor, supervise, and review all work performed; and coordinate budgeting and scheduling to ensure the Project is completed within budget, on schedule, and in accordance with approved procedures, applicable laws, and regulations.
- 1.2 Notify the Grant Manager at least fifteen (15) working days in advance of upcoming meetings, workshops, and trainings.
- 1.3 Further develop and update appropriately the detailed Project schedule submitted with the Recipient's application, including key Project milestones, and submit to the Grant Manager.
- 1.4 Conduct Project status review meetings as requested by the Grant Manager.

#### 2. Technical Advisory Committee (TAC)

- 2.1 Collaborate with the County to establish a TAC for the development of the County IRWM FE-SWRP that includes the State Water Board, Regional Water Board, and interested parties such as municipalities, water suppliers, local agencies, non-governmental organizations, public utilities, and regulatory agencies. Submit the final list of TAC members, their roles and responsibilities, affiliations, and commitment letters to the Grant Manager.
- 2.2 Convene a kickoff meeting to develop the FE-SWRP water management goals and objectives, formalize roles, and develop a schedule for future meetings. Submit a summary of FE-SWRP objectives, meeting schedule and any updates to the TAC participant list to the Grant Manager.

- 2.3 Conduct a minimum of four (4) meetings and submit the agendas, meeting notes, sign-in sheets, and a list of current action items for each meeting to the Grant Manager.
  - 2.4 Execute letters of intent for preparation of the FE-SWRP with the City of Grover Beach, City of Pismo Beach, Coastal San Luis Resource Conservation District, County Flood Control (Zone 3), Oceano Community Services District, and the County IRWM Plan group. Submit copies to the Grant Manager.
3. Data Collection and Watershed Identification
    - 3.1 Gather and review existing data appropriate to development of the FE-SWRP including maps, geographic information system (GIS) data, analytical tools, related plans, permits, and storm water management information. Submit an annotated list of reviewed data and reports and identified data gaps to the Grant Manager.
    - 3.2 Review and identify the FE-SWRP watershed and sub-watersheds planning boundaries. The review shall include characterization of land use and natural or open space, public agency and water utility boundaries, surface and groundwater resources, and water quality priorities. Submit a FE-SWRP planning area description, map, and justification of planning area boundaries to the Grant Manager for approval.
4. Storm Water Resource Plan Development
    - 4.1 Develop and submit a detailed FE-SWRP outline with a description of each section that demonstrates compliance with the SWRP Guidelines to the Grant Manager for approval.
    - 4.2 Develop necessary components for a complete FE-SWRP that achieves the recommendations set forth in the SWRP Guidelines and complies with the Water Code Sections 10561 - 10573. The FE-SWRP shall include at a minimum, the following sections: Watershed Identification; Water Quality Compliance; Organization, Coordination, Collaboration; Quantitative Methods; Identification and Prioritization of Projects; Implementation Strategy and Schedule; Education, Outreach, and Public Participation. Submit update(s) on the development of each of the sections in the associated quarterly progress report(s).
    - 4.3 Provide a description of the approach to address water quality requirements in the FE-SWRP to the Grant Manager for approval. The description shall include consideration of the following:
      - 4.3.1 Activities generating or contributing to polluted runoff or that impair beneficial use of storm water and dry weather runoff.
      - 4.3.2 Strategies in which the FE-SWRP will be used to address the pollutant runoff or sources, and how the FE-SWRP will be consistent with and help to implement applicable regulatory permits, Total Maximum Daily Loads (TMDL), and other relevant water quality requirements.
    - 4.4 Develop quantitative methodologies for integrated identification, prioritization, and analysis of multiple benefit projects and programs to ensure the FE-SWRP will achieve the water management objectives. The metrics-based analysis shall consider, at a minimum, opportunities to attain water quality improvements, storm water capture and use, water supply, flood management, and environmental and community benefits using the following approaches:

- 4.4.1 Complete an evaluation of hydrologic/hydraulic models, water quality models, and other GIS and spreadsheet-based decision support tools and modeling suitable to conduct the metrics-based benefit analysis and prioritization of projects.
- 4.4.2 Prepare a technical memo describing the selected modeling tools and quantitative methodologies that will be utilized and submit to the Grant Manager for approval.
- 4.5 Complete the analysis, prioritization process, and project(s) selection using the approaches identified in Item 4.4 and submit the results to the Grant Manager. At a minimum, the steps shall include:
  - 4.5.1 Identify potential opportunities and multi-benefit storm water projects that augment water supply, water quality, flood protection, environmental benefits, and other community benefits within the watershed using the developed approach.
  - 4.5.2 Screen potential opportunities and projects for feasibility and potential benefits by conducting site visits, gathering supplemental information, and using the developed approach.
  - 4.5.3 Evaluate each feasible multi-benefit project and develop a list of prioritized projects using the developed approach.
- 4.6 Develop an implementation strategy that includes stakeholder involvement, performance-measures, development of decision support tools, monitoring, and an adaptive management approach.
  - 4.6.1 Identify monitoring and data requirements to support implementation of the FE-SWRP.
  - 4.6.2 Develop data collection, storage, and management protocols that include mechanisms to make the data available to stakeholders, assess monitoring programs and data quality control, update data, and fill data gaps.
  - 4.6.3 Prepare a technical memo of the draft implementation strategy and submit to the Grant Manager for approval.
- 4.7 Submit an administrative draft FE-SWRP and draft SWRP Guidelines Appendix A checklist and self-certification (self-certification checklist) to the TAC for comment.
- 4.8 Address all comments received on the administrative draft FE-SWRP and prepare a public draft FE-SWRP. Submit the public draft FE-SWRP to the Grant Manager for approval.
- 4.9 Post the public draft FE-SWRP online and solicit comments from the public, the local IRWM group, and interested stakeholders. Submit a summary of the comments received to the Grant Manager.
- 4.10 Address all applicable public comments and prepare a final draft FE-SWRP. Submit the final draft FE-SWRP to the TAC for comment.
- 4.11 Prepare the final FE-SWRP and submit with the signed self-certification checklist to the TAC and the Grant Manager for review. Obtain the Grant Manager approval on the final FE-SWRP and submit the final FE-SWRP, signed self-certification checklist, and Grant Manager concurrence letter to the local IRWM group to incorporate the SWRP into the IRWM Plan.

5. Stakeholder Outreach, Education, and Public Participation

- 5.1 Facilitate the organization, coordination, and collaboration among stakeholders, DAC residents and non-governmental organizations to provide opportunities for general public participation and education throughout development of the FE-SWRP.
  - 5.1.1 Prepare a stakeholder outreach, education, and engagement plan and submit to the Grant Manager for approval.
  - 5.1.2 Conduct a minimum of three (3) public outreach meetings for partners and interested stakeholders over the course of development of the FE-SWRP to obtain input on analysis design, programs, project types, and methodology for prioritization.
  - 5.1.3 Develop a minimum of three (3) press releases to support stakeholder outreach.
- 5.2 Submit a summary of stakeholder outreach, education, public participation, and collaboration activities including meeting agenda(s) and materials, meeting summaries, sign-in sheets, and photos in the associated quarterly progress report(s).

A-4. Disclosure

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

“Funding has been provided in full or in part through an agreement with the State Water Resources Control Board using funds from Proposition 1. The contents of this document do not necessarily reflect the views and policies of the foregoing, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.”

A-5. Reporting

- (a) Progress Reports. The Recipient shall submit quarterly progress reports, using a format provided by the Grant Manager, within forty-five (45) days following the end of the calendar quarter (March, June, September, and December) to the Grant Manager. Progress Reports shall provide a brief description of activities that have occurred, milestones achieved, monitoring results (if applicable), and any problems encountered in the performance of the work under this Agreement during the applicable reporting period. Reporting shall be required even if no grant related activities occurred during the reporting period. The Recipient shall document all activities and expenditures in progress reports, including work performed by contractors.
- (b) As Needed Information or Reports. The Recipient agrees to provide expeditiously, during the term of this Agreement, such reports, data, and information as may be reasonably required by the Division, including but not limited to material necessary or appropriate for evaluation of the funding program or to fulfill any reporting requirements of the state or federal government.
- (c) Annual Progress Summaries. The Recipient shall prepare and submit an Annual Progress Summary, using a format provided by the Grant Manager, annually by November 15 that covers the time period from October 1 of the previous year through September 30 of the current year to the Grant Manager. The summary must be no more than five (5) pages, and shall include pictures as appropriate. The Recipient shall upload an electronic copy of the Annual Progress Summary in pdf format to the Financial Assistance Application Submittal Tool (FAAST) system. The summary shall include, at a minimum, the following:

- (1) A summary of the conditions the Project is meant to alleviate, the Project's objective, the scope of the Project, and a description of the approach used to achieve the Project objective.
  - (2) A summary of the progress made to date, significant milestones achieved, and the current schedule of completing the Project.
- (d) Final Reports. At the conclusion of the Project, the Recipient must submit the following to the Grant Manager:
- (1) Final Project Summary. Prepare and submit a Final Project Summary in a format provided the Grant Manager, which includes accomplishments, recommendations, and lessons learned, as appropriate. Upload an electronic copy of the Final Project Summary in pdf format to the FFAST system.

A-6. Submittal Schedule

Failure to provide items by the due dates indicated in the Submittal Schedule below may constitute a material violation of this Agreement. However, the dates in the "Estimated Due Date" column of this Submittal 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 Work 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
<b>EXHIBIT A-3 PROJECT-SPECIFIC SCOPE OF WORK</b>			
1.	Project Management		
1.2	Notification of Upcoming Meetings, Workshops, and Trainings		Ongoing
1.3	Detailed Project Schedule	1 2/ 26/ 2017	
1.4	Status Review Meetings		Ongoing
2.	Technical Advisory Committee (TAC)		
2.1	List of TAC Members, Roles and Responsibilities, Affiliations, and Commitment Letters		10/ 26/ 2017
2.2	TAC Kickoff Meeting Summary		August 2017
2.3	TAC Meeting Agenda, Notes, Sign-In Sheets, and Action Items		July 2018
2.4	Letters of Intent		Ongoing
3.	Data Collection and Watershed Identification		
3.1	Annotated List of Data and Reports		October 2017
3.2	Planning Area Description, Map, and Boundaries		September 2017
4.	Storm Water Resource Plan Development		
4.1	Detailed FE-SWRP Outline	12/31/2017	
4.3	Description of Approach Addressing Water Quality		October 2017
4.4.2	Technical Memo on Modeling Tools and Methodologies		November 2017
4.5	Results of Analysis, Prioritization and Project(s) Selection		March 2018
4.6. 3	Technical Memo on Draft Implementation Strategy		April 2018
4.8	Public Draft FE-SWRP		July 2018
4.9	Summary of Comments		September 2018
4.11	Final FE-SWRP and Signed Self-Certification Checklist	11/ 30/ 2018	

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
<b>EXHIBIT A-3 PROJECT-SPECIFIC SCOPE OF WORK</b>			
5.	Stakeholder Outreach, Education, and Public Participation		
5.1.1	Stakeholder Plan		September 2017
<b>EXHIBIT A-5 REPORTING</b>			
(a)	Progress Reports	Quarterly	
(b)	As Needed Information or Reports		
(c)	Annual Progress Summaries	Annually by 11/15	
(d)	Final Reports		
(d)(1)	Final Project Summary	Before Final Disbursement Request	
<b>EXHIBIT B -- FUNDING PROVISIONS</b>			
4 (b)	Final Disbursement Request	2/28/2019	
9 (b)(4)	Disbursement Requests	Quarterly	

## 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 EIGHTY-NINE THOUSAND, ONE HUNDRED FORTY DOLLARS (\$189,140).

### B-2. Match Funds

- (a) The Recipient agrees to provide Match Funds in the amount of ONE HUNDRED EIGHTY-NINE THOUSAND, THREE HUNDRED SEVENTY-SIX DOLLARS (\$189,376).
- (b) This Match Funds amount is based on the budget, funding sources, and amounts submitted by the Recipient in its application and during the negotiation of this Agreement. Any Match Funds changes or adjustments requested by the Recipient must be approved, in advance and in writing, by the Grant Manager and may require an amendment to this Agreement.
- (c) Only expenses that would be considered eligible under Prop 1 and the Guidelines will be counted towards the Recipient's Match Funds.
- (d) Any costs incurred prior to the adoption of Prop 1 on November 4, 2014, will not count towards the Recipient's Match Funds.
- (e) If, at Work Completion, the Recipient has provided Match Funds in an amount that is less than the Match Funds amount set forth above, the State Water Board may proportionately reduce the Grant Funds amount and/or Recipient's Match Funds amount, upon approval of the Deputy Director of the Division, provided the reduced amount(s) satisfy statutory requirements and Guidelines.

### B-3. Estimated Reasonable Total Project Cost

The estimated reasonable cost of the total Project is THREE HUNDRED SEVENTY-EIGHT THOUSAND, FIVE HUNDRED SIXTEEN DOLLARS (\$378,516).

### B-4. Funding Dates

- (a) The Eligible Start Date is MARCH 1, 2017. Otherwise eligible costs incurred prior to this date will not be reimbursed.
- (b) The Final Disbursement Request Date is FEBRUARY 28, 2019. 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 deobligated.

### B-5. Funding Conditions and Exclusions

- (a) This Agreement reflects planning funding only. If the Recipient desires implementation/construction funding, the Recipient must apply for implementation/construction funding, and execute an implementation/construction funding agreement. Costs associated with the implementation/construction phase of the possible eventual implementation/construction project are not eligible for reimbursement under this Agreement.

- (b) The State Water Board's disbursement of funds hereunder is contingent on the Recipient's compliance with the terms and conditions of this Agreement.
- (c) Grant Funds may not be used for any Indirect Costs. Any Disbursement Request submitted including Indirect Costs will cause that Disbursement Request, in its entirety, to be disputed and will not be paid until the dispute is resolved. This prohibition applies to the Recipient 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.)

B-6. Budget Summary

LINE ITEM	GRANT FUNDS	MATCH FUNDS	TOTAL PROJECT COSTS
Direct Project Administration Costs	\$ 12,040	\$ 0	\$ 12,040
Planning/Design/Engineering/ Environmental	\$ 167,100	\$ 189,376	\$ 356,476
Construction/Implementation	\$ 0	\$ 0	\$ 0
Monitoring/Performance	\$ 0	\$ 0	\$ 0
Education/Outreach	\$ 10,000	\$ 0	\$ 10,000
<b>TOTAL</b>	<b>\$ 189,140</b>	<b>\$ 189,376</b>	<b>\$ 378,516</b>

B-7. Budget Flexibility

- (a) Subject to the prior review and approval of the Grant Manager, adjustments between existing line item(s) may be used to defray allowable direct costs up to fifteen percent (15%) of the total amount (excluding Match Funds), including any amendment(s) thereto. Line item adjustments in excess of fifteen percent (15%) require an Agreement amendment. If the detailed budget includes an amount for the Recipient's personnel costs, that amount is based on the hours, classifications, and rates submitted by the Recipient in its application. Any changes to the hours, classifications, and rates must be approved, in advance and in writing, by the Grant Manager.
- (b) The Recipient may submit a request for an adjustment in writing to the Grant Manager. Such adjustment may not increase or decrease the total grant amount. The Recipient shall submit a copy of the original Agreement Budget sheet reflecting the requested changes and shall note proposed changes by striking out the original amount(s) followed with proposed change(s) in bold and underlined. Budget adjustments deleting a budget line item or adding a new budget line item shall require a formal amendment. The Division may also propose budget adjustments.
- (c) The sum of adjusted line items shall not exceed the total budget amount.

B-8. Amounts Payable by the Recipient

The Recipient 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 Recipient 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-9. Disbursement of Grant Funds; Availability of Grant Funds

- (a) The State Water Board's obligation to disburse Grant Funds is contingent upon the availability of sufficient funds to permit the disbursements provided for herein. If sufficient funds are not available for any reason, including but not limited to failure of the State government to appropriate funds necessary for disbursement of Grant Funds, the State Water Board shall not be obligated to make any disbursements to the Recipient under this Agreement. This provision shall be construed as a condition precedent to the obligation of the State Water Board to make any disbursements under this Agreement. Nothing in this Agreement shall be construed to provide the Recipient with a right of priority for disbursement over any other recipient. If any disbursements due the Recipient under this Agreement are deferred because sufficient funds are unavailable, it is the intention of the State Water Board that such disbursement will be made to the Recipient when sufficient funds do become available, but this intention is not binding. 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 amendment to the Recipient to reflect the reduced amount.
- (b) 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 Recipient may submit a Disbursement Request for eligible Project Costs as well as to support Match Funds 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 time period covered by the request, i.e., the term "from" and "to";
    - c. The total amount requested;
    - d. Documentation of Match Funds used;
    - e. Original signature and date (in ink) of Recipient's Project Director or his/her designee; and
    - f. The Final Disbursement Request shall be clearly marked "FINAL DISBURSEMENT REQUEST" and shall be submitted NO LATER THAN FEBRUARY 28, 2019.
  - (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 Project Director or his/her designee 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 Recipient. 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 Recipient's Project Director or his/her designee. 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 Recipient 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 Recipient, although the actual payment of such cost(s) by the Recipient is not required as a condition of Disbursement Request(s). Supporting documentation (e.g., receipts) must be submitted with each Disbursement Request as well as to support Match Funds claimed, if any. The amount requested for administration costs must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = total amount claimed). Disbursement of Grant Funds will be made only after receipt of a complete, adequately supported, properly documented, and accurately addressed Disbursement Request.
- (6) The Recipient will not seek reimbursement of any Project Costs that have been reimbursed from other funding sources.
- (7) The Recipient 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 that the Recipient fails to disburse Grant Funds to contractors or vendors within thirty (30) days from receipt of the funds, the Recipient shall immediately return such funds to the State Water Board. Interest shall accrue on such funds from the date of disbursement through the date of mailing of funds to the State Water Board. If the Recipient held such funds in interest-bearing accounts, any interest earned on the funds shall also be due to the State Water Board.
- (8) The Recipient 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 Recipient fails to do so, then the undisbursed balance of this Agreement will be deobligated.
- (9) The Recipient 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, or regulations.
- (11) The Recipient 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 Recipient. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the Grant Manager.
- (13) The Recipient must include any other documents or requests required or allowed under this Agreement.

B-10. Withholding of Disbursements and Material Violations

- (a) Notwithstanding any other provision of this Agreement, the Recipient agrees that the State Water Board may retain an amount equal to ten percent (10%) of the Grant Funds until Project Completion. Any retained amounts due to the Recipient will be promptly disbursed to the Recipient, without interest, upon Project Completion.
- (b) The State Water Board may withhold all or any portion of the funds provided for by this Agreement in the event that:
  - (1) The Recipient has materially violated, or threatens to materially violate, any term, provision, condition, or commitment of this Agreement; or
  - (2) The Recipient fails to maintain reasonable progress toward Project Completion.

B-11. Remaining Balance

In the event the Recipient does not request all of the funds encumbered under this Agreement, any remaining funds revert to the State.

B-12. Fraud and Misuse of Public Funds

All requests for disbursement 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 Recipient shall not submit any Disbursement Request containing costs that are ineligible or have been reimbursed from other funding sources unless required and specifically noted as such (i.e., match costs). Any eligible costs for which the Recipient is seeking reimbursement shall not be reimbursed from any other source. Double or multiple billing for time, services, or any other eligible cost is 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 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.)

EXHIBIT C – STANDARD TERMS AND CONDITIONS

C-1. Accounting and Auditing Standards

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

C-2. 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-3. Assignability

This Agreement is not assignable by the Recipient, either in whole or in part.

C-4. Audit

- (a) The Division, at its option, may call for an audit of financial information relative to the Project, where the Division 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 Recipient and at the cost of the Recipient. The audit shall be in the form required by the Division.
- (b) Audit disallowances will be returned to the State Water Board. Failure to comply with audit disallowance provisions shall disqualify the Recipient from participating in State Water Board funding programs.

C-5. [Reserved]

C-6. [Reserved]

C-7. Claims

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

C-8. Competitive Bidding

The Recipient shall adhere to any applicable state or local ordinance for competitive bidding and applicable labor laws.

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

C-9. Compliance with Law, Regulations, etc.

The Recipient agrees that it will, at all times, comply with and require its contractor and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements. Without limitation of the foregoing, the Recipient agrees that, to the extent applicable, the Recipient will:

- (a) Comply with the Guidelines; and
- (b) Comply with and require compliance with the list of state laws (cross-cutters) in Section C-32 of this Agreement.

C-10. Conflict of Interest

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

C-11. Damages for Breach Affecting Tax-Exempt Status or Federal Compliance

In the event that any breach of any of the provisions of this Agreement by the Recipient shall result in the loss of tax-exempt status for any bonds of the State or any subdivision or agency thereof, including bonds issued on behalf of the State Water Board, 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 by reason of any arbitrage profits, the Recipient 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. In the event that any breach of any of the provisions of this Agreement by the Recipient 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 Recipient 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-12. Disputes

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

C-13. Financial Management System and Standards

The Recipient agrees to comply with federal standards for financial management systems. The Recipient 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 funds have not been used in violation of federal or state law or the terms of this Agreement.

#### C-14. Governing Law

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

#### C-15. Income Restrictions

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

#### C-16. 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 Recipient of its responsibility to engage in proper planning. To the extent permitted by law, the Recipient 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 Recipient 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 Recipient agrees to pay and discharge any judgment or award entered or made against Indemnified Persons with respect to any such claim or action, and any settlement, compromise or other voluntary resolution. The provisions of this section shall survive the term of this Agreement and the discharge of the Recipient's Obligation hereunder.

#### C-17. Independent Actor

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

#### C-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, Recipient 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 Recipient, 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 Recipient, 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, subds. (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 Recipient, 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 Recipient shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

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. [Reserved]

C-22. Other Assistance

If funding for Project Costs is made available to the Recipient from sources other than this Agreement and approved match sources, the Recipient shall immediately notify the Grant Manager.

C-23. Permits; Contracting; Disqualification

The Recipient shall comply in all material respects with all applicable federal, state and local laws, rules and regulations. Recipient 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.

For any work related to this Agreement, the Recipient 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 Recipient shall not contract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension."

C-24. Public Records

The Recipient 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-25. Prevailing Wages

The Recipient agrees to be bound by all applicable provisions of the State Labor Code regarding prevailing wages. The Recipient 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-26. Professionals

The Recipient agrees that only professionals with valid licenses in the State of California 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-27. Public Funding

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

C-28. Recipient's Responsibility for Work

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

C-29. Records

Without limitation of the requirement to maintain Project accounts in accordance with GAAP, the Recipient 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. Indirect Costs are not eligible for funding under this Agreement.
- (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 Force Account is used by the Recipient 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.
- (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 thirty-six (36) years after Work Completion. The Recipient 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 Recipient 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-30. Related Litigation

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

#### C-31. Rights in Data

The Recipient agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Agreement are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Recipient may copyright the same, except that, as to any work which is copyrighted by the Recipient, the State reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so, and to receive electronic copies from the Recipient upon request.

#### C-32. State Cross-Cutter Compliance

Recipient 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 Recipient 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 and potentially other environmental review requirements, including the National Environmental Policy Act (NEPA). Proceeding with work subject to CEQA and/or NEPA without environmental clearance by the State Water Board shall constitute a breach of a material provision of this Agreement.

(c) Charter City Project Labor Requirements. (Labor Code, § 1782 and Pub. Contract Code, § 2503.)

(1) Prevailing Wage

Where Recipient is a charter city or a joint powers authority that includes a charter city, Recipient certifies that no charter provision nor ordinance authorizes a construction project contractor not to comply with Labor Code's prevailing wage rate requirements, nor, within the prior two 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 Recipient is a charter city or a joint powers authority that includes a charter city, Recipient 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 Recipient 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, Recipient acknowledges that Recipient and Recipient'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 Recipient is a state or local public agency and the proposed action is covered by the Delta Plan, Recipient 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 and Match Funds shall not be used to acquire land via eminent domain.

(g) Governor's Infrastructure Plan. (Gov. Code, § 13100.) The Recipient shall ensure that the Project shall maintain consistency with section 13100 of the Government Code (five-year infrastructure plan).

(h) State Water Board's Drought Emergency Water Conservation regulations. (Cal. Code of Regulations, Title 23, article 22.5.) The Recipient will include a discussion of its implementation in Progress Reports submitted pursuant to this Agreement.

(i) Urban Water Demand Management. (Wat. Code, § 10631.5.) If Recipient is an "urban water supplier" as defined by Water Code section 10617, Recipient certifies that it is implementing water demand management measures approved by the Department of Water Resources.

- (j) Urban Water Management Planning Act. (Wat. Code, § 10610 et seq.). If Recipient is an “urban water supplier” as defined by Water Code section 10617, the Recipient 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.
- (k) Urban Water Supplier. (Wat. Code, §§ 526 and 527.) If Recipient 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.
- (l) Water Diverter. (Wat. Code, § 5103.) If Recipient is a water diverter, Recipient must maintain compliance by submitting monthly diversion reports to the Division of Water Rights of the State Water Resources Control Board.
- (m) Water Quality Compliance. (Wat. Code, § 79707.) The Recipient shall ensure that the Project shall maintain consistency with Division 7 of the Water Code (commencing with section 13000) and Government Code section 13100.
- (n) Water Quality Monitoring. (Wat. Code, § 79704.) If water quality monitoring is required as part of the Project, the Recipient 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.
- (o) Wild and Scenic Rivers. (Wat. Code, § 79711.) The Recipient 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-33. State Water Board Action; Costs and Attorney Fees

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

C-34. Termination; Immediate Repayment; Interest

- (a) This Agreement may be terminated at any time prior to the End Date set forth on the cover and in Exhibit A, at the option of the State Water Board, upon violation by the Recipient of any material provision of this Agreement after such violation has been called to the attention of the Recipient and after failure of the Recipient 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 Recipient 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 Recipient to the date all monies due have been received by the State Water Board.

C-35. Timeliness.

Time is of the essence in this Agreement.

C-36. 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-37. [Reserved]

C-38. Venue

The State Water Board and the Recipient 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.

C-39. 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 the 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.