



BOARD MEMORANDUM

DATE: June 18, 2024

TO: Santa Clarita Valley Water Board

FROM: Courtney Mael, P.E. *CM*
Chief Engineer

SUBJECT: Approve Adopting a Resolution Authorizing Santa Clarita Valley Water Agency to Execute a Funding Agreement with the State Water Resources Control Board for Grant Funds from the Expedited Drinking Water Grant Program on Behalf of New Mint Association for Distribution System Consolidation

SUMMARY

Pursuant to Resolution No. SCV-369 (Attachment 1), Santa Clarita Valley Water Agency (Agency) has applied for grant funds from the State Water Resources Control Board (SWRCB) to consolidate the New Mint Association (NMA) into the Agency by fully replacing the NMA distribution system, including metering NMA's existing 70 connections. The SWRCB has issued a Funding Agreement No. D2302024 to fund the Project under the Expedited Drinking Water Grant (EDWG) Program. According to the terms of the Agreement, the Agency must deliver a closing resolution authorizing execution of this Agreement and identifying the authorized representative by Title. This project helps meet the Agency's Strategic Plan Strategy E.1.4 "Optimize grant opportunities to manage rate impacts."

DISCUSSION

Project Background and Scope: NMA is a California nonprofit mutual benefit corporation that receives water from the Agency from a 2-inch master meter and distributes at cost to its shareholders, which consist of 70 homeowners. The NMA is located off Sierra Highway at Fitch Avenue and Forrest Street in the northeast portion of the Agency's service area. The NMA water distribution consists of primarily 2-inch steel pipes that were installed in the 1940s and are at risk of failure. The NMA has formally requested (by resolution adopted on May 26, 2023 by NMA Board of Directors) that the Agency apply for grant funding from the SWRCB on its behalf to replace the distribution system and consolidate with the Agency. Although NMA receives water from the Agency, the SWRCB has indicated that this project would be eligible for grant funding under a new EDWG Program. The project will meet a SWRCB goal of consolidating small water systems that are not able to comply with public health and safety standards due to lack of resources. The Agency adopted Resolution No. SCV-369 on July 18, 2023 to apply for grant funding from the EDWG Program on behalf of NMA.

The project scope will construct a new public distribution system consisting of approximately 3,400 linear feet of 8-inch ductile iron pipe within public rights of way, with associated public fire hydrants, isolation valves, and appurtenances. The project scope will include removal of the existing master meter and installation of individual service lines and Agency meters to each of the 70 NMA homeowners for direct billing by the Agency. The project scope includes removal and/or abandonment of existing NMA distribution lines and service lines. The estimated cost of the project is \$3,708,994 including planning, design and construction.

The Agency will take ownership of the new public distribution system and meters once construction is completed and accepted by the Agency. At that time, NMA will no longer own, operate, or maintain the distribution system including the service lines and meters. Terms and conditions for the consolidation and transfer of ownership will be set forth in a Consolidation and Water Service Agreement between the Agency and NMA prior to construction.

Grant Funding: On March 8, 2023, the SWRCB adopted guidelines for the EDWG Program that makes available a variety of state funding sources for drinking water infrastructure projects, particularly for urgent projects to address water systems at risk of failing that can be consolidated into a larger public system. The program is administered by the Division of Financial Assistance (DFA) and intended to fast-track urgent water projects. Although NMA is not classified as a disadvantaged community under Title 22 Section 64300, the SWRCB has indicated this project would be eligible for grant funding under the EDWG to cover the entire cost of the project, including planning, design and construction in a Preliminary Funding Award Notification letter dated August 25, 2023.

The Agency submitted grant application documents on September 24, 2023 as required by the SWRCB to develop the Funding Agreement. NMA has provided a deposit to the Agency to prepare the grant application documents, which will be reimbursable under the grant. NMA will provide a deposit for design, which will be reimbursable under the grant.

The Funding Agreement requires that a Final Budget Approval Package be submitted to the SWRCB after receipt of construction bids and prior to start of construction. If grant funds for the project are not sufficient to pay the project costs in full, based on bid results, then the Agency will seek an amendment to the project costs included in the Funding Agreement.

The Funding Agreement requires the following disclosure be included in documents and signage shared with the general public regarding the project: "Funding for this project has been provided in full or in part under the Budget Act of 2021 through an agreement with the State Water Resources Control Board."

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) CONSIDERATIONS

Based on the project design and because the construction consists of the replacement of a potable water system that provides water service to existing residences within the existing NMA to meet current SCV Water standards and because the project is located within the same site as the existing system, this project is found to be categorically exempt under the provisions of CEQA and the State CEQA guidelines as described below.

- The project, or the whole of the action, qualifies for a Categorical exemption under CEQA guidelines section 15302(c) Class 2 Replacement or Reconstruction of existing utility facilities where the new facilities will be located on the same site as the facilities replaced and will have substantially the same purpose as the facilities replaced.
- The project, or the whole of the action, qualifies for a Statutory Exemption under CEQA guidelines section 15282(k) as it will install less than one mile of new public water distribution system within the same limits as the existing system.
- None of the exemptions listed in Section 15300.2 of the CEQA Guidelines would apply to this action.

Resolution SCV-369 adopted a Notice of Exemption (NOE) to apply for grant funds for the project. A new NOE will be prepared when construction is approved by the Agency Board of Directors.

STRATEGIC PLAN NEXUS

This project helps meet the Agency Strategic Plan Strategy E.1.4 “Optimize grant opportunities to manage rate impacts.”

FINANCIAL CONSIDERATIONS

None. Project action is to secure grant funding for consolidation of NMA with the Agency, including planning, design and construction. The SWRCB will provide an additional \$10 Million dollars in zero percent (0%) interest loan as an incentive that can applied to a project of our choosing in lieu of facility capacity fees. The Agency Finance Department estimates the value of the \$10 Million dollar 0% loan will save \$5.5 Million compared to \$1 Million dollar facility capacity fees for 70 residential meters.

RECOMMENDATION

That the Board of Directors adopt the attached resolution (Attachment 2) to execute a grant agreement with the SWRCB for a distribution system consolidation of NMA with the Agency, and to designate the General Manager as the authorized representative.

Attachments



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RESOLUTION NO. SCV-369

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE SANTA CLARITA VALLEY WATER AGENCY
AUTHORIZING THE GENERAL MANAGER TO APPLY FOR FUNDING FROM THE
STATE WATER RESOURCES CONTROL BOARD'S EXPEDITED DRINKING WATER
GRANT FUNDING PROGRAM ON BEHALF OF THE NEW MINT ASSOCIATION FOR
CONSOLIDATION OF DISTRIBUTION SYSTEM**

WHEREAS, New Mint Association (NMA) is a California nonprofit mutual benefit corporation formed for the purpose to develop, own, operate, and dispose of systems to sell distribute, supply, and deliver water at cost for its shareholders, which consist of 70 homeowners; and

WHEREAS, NMA is located within the service boundary of the Santa Clarita Valley Water Agency (Agency) and currently receives water from the Agency from an existing 2-inch master meter; and

WHEREAS, NMA is managed by its own homeowner volunteers including billing, payments, operation, maintenance, and repairs of the system; and

WHEREAS, NMA's distribution system consists of small, aging pipes that lack capacity to provide adequate fire service or system pressure for its residents, and is subject to frequent leaks and interruption of service to the NMA community, and is at risk of catastrophic failure; and

WHEREAS, the cost to replace the NMA distribution system is significant, and NMA lacks the financial resources to pay for such replacement absent some form of financial assistance; and

WHEREAS, NMA has been communicating with the State Water Resources Control Board (SWRCB) regarding possible grant funding to pay for consolidation with the Agency including the replacement of the distribution system and installation of Agency Water meters to each NMA homeowner; and

WHEREAS, the SWRCB has informed the Agency that it may apply for grant funds from the Expedited Drinking Water Grant (EDWG) Funding Program on behalf of NMA to cover the entire cost of construction to replace and upgrade the distribution system, including installation of facility capacity fees for new meters; and

WHEREAS, the SWRCB has informed the Agency that this would be a "Distribution System Consolidation," which means the Agency will operate and maintain the new, upgraded distribution system and provide direct metered service to each homeowner, and the NMA Corporation would be dissolved and no longer own, operate, or maintain the distribution system; and

WHEREAS, the NMA desires to consolidate with the Agency and has adopted a resolution requesting the Agency prepare, submit, and execute a financial application on NMA's behalf to the SWRCB's EDWG Funding Program for the entire cost to consolidate with the Agency and to construct a new distribution system with 70 new service lines and meters, including facility capacity fees; and

WHEREAS, the SWRCB has informed the Agency that in order to apply for a grant from the SWRCB EDWG Funding Program on behalf of NMA, the Santa Clarita Valley Water Agency's Board of Directors must first adopt a resolution authorizing the Agency to do so and to designate an Authorized Representative; and

WHEREAS, the Agency is applying for grant funding from the SWRCB EDWG Funding Program for a distribution consolidation with NMA, including the cost to construct a new distribution system with 70 new service lines and meters, including facility capacity fees; and

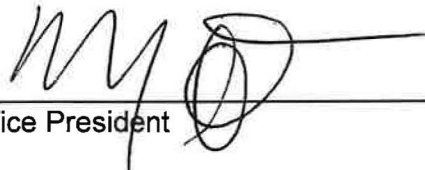
WHEREAS, the project, or the whole of the action qualifies for Categorical Exemption under CEQA guidelines section 15302(c) Class 2 Replacement or Reconstruction of existing utility facilities where the new facilities will be located on the same site as the facilities replaced and will have substantially the same purpose as the facilities replaced, as shown on the attached Notice of Exemption; and

WHEREAS, the project, aka the whole of the action, also qualifies for a Statutory Exemption under CEQA guidelines section 15282(k) as it will install less than one mile of new water distribution piping within the same limits as the existing system.

NOW, THEREFORE, BE IT RESOLVED, that the Santa Clarita Valley Water Agency's Board of Directors hereby authorizes the General Manager (the "Authorized Representative"), or designee, to prepare, execute, and file the necessary documents and/or applications for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of the NMA Distribution Consolidation.

The General Manager, or his designee, is designated and further authorized to provide assurances, certifications, and commitments required for the financial assistance application, including executing a financial assistance agreement, subject to Board approval, with the State Water Resources Control Board and any amendments or changes thereto.

The General Manager, or his designee, is designated and further authorized to represent the Agency in carrying out the Agency's responsibilities under the financing agreement, including certifying disbursement requests on behalf of the Agency and compliance with applicable state and federal laws.


Vice President

I, the undersigned, hereby certify: That I am the duly appointed and acting Secretary of the Santa Clarita Valley Water Agency, and that at a regular scheduled meeting of the Board of Directors of said Agency held on July 18, 2023 the foregoing Resolution No. SCV-369 was duly and regularly adopted by said Board, and that said resolution has not been rescinded or amended since the date of its adoption, and that it is now in full force and effect.

DATED: July 18, 2023


Secretary



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NOTICE OF EXEMPTION

To: Registrar-Recorder/County Clerk
Los Angeles County
12400 Imperial Highway
Norwalk, CA 90650

From: Santa Clarita Valley Water Agency
27234 Bouquet Canyon Road
Santa Clarita, CA 91350

To: County Clerk and Recorder
Ventura County
800 S. Victoria Ave, Location #1260
Ventura, CA 93009

Project Title: Apply for Grant Funds from the State Water Resource Control Board's "Expedited Drinking Water Grant Funding Program" on Behalf of the New Mint Association for Consolidation of Distribution System

Location -- Specific: The project is located off Sierra Highway at Fitch Avenue, Forrest Street and Louis Avenue in Santa Clarita, CA

Location -- Counties: Los Angeles County

Description of Activity:

SCV Water is applying for Grant Funds from the State's "Expedited Drinking Water Grant Funding Program" for Consolidation of the New Mint Association water distribution system. The project will replace an existing potable water distribution system to meet SCV Water standards and consolidate the New Mint Association water system into SCV Water.

Based on the project design and because the construction consists of the replacement of a potable water system that provides water service to existing residences within the existing New Mint Association to meet current SCV Water standards, and because the project is located within the same site as the existing system, this project will be categorically exempt under the provisions of CEQA and the State CEQA Guidelines as described herein. A new NOE will be prepared when construction is approved by the SCV Water Board of Directors.

Name of Public Agencies Approving or Carrying Out Activity: Santa Clarita Valley Water Agency (Lead Agency).

Exempt Status: (Choose Exemption Type)

- Ministerial
- Declared Emergency
- Emergency Project
- Categorical Exemption.** See CEQA Guidelines Section 15302 (c)
- Statutory Exemption.** See CEQA Guidelines Section 15282 (k)

Reasons why activity is exempt:

The project, aka the whole of the action, qualifies for a Categorical exemption under CEQA guidelines section 15302 (c) Class 2 Replacement or Reconstruction of existing utility facilities where the new facilities will be located on the same site as the facilities replaced and will have substantially the same purpose as the facilities replaced.

The project, aka the whole of the action, qualifies for a Statutory Exemption under CEQA guidelines section 15282 (k) as it will install less than one mile of new public water distribution piping within the same limits as the existing system.

Lead Agency Contact Person: Brent Payne **Telephone:** (661) 964-3991

Signature: _____ **Title:** _____ **Date:** _____

- Signed by Lead Agency
- Signed by Applicant

Date received for filing by County Clerk:

ATTACHMENT 2

RESOLUTION NO. SCV-_____

RESOLUTION OF THE SANTA CLARITA VALLEY WATER AGENCY AUTHORIZING THE EXECUTION AND DELIVERY OF AND APPROVING A GRANT AGREEMENT WITH THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

WHEREAS, the Santa Clarita Valley Water Agency (the "Agency"), is a public water agency duly organized and validly existing under the laws of the State of California, is authorized under provisions of the Constitution and laws of the State of California, and in accordance therewith, to incur indebtedness; and

WHEREAS, the Agency has property rights to a water system, such system, including all additions, improvements and extensions thereto, is referred to herein as the "System".

WHEREAS, the Agency has determined that it is in the best interests of its constituents to undertake work required for the New Mint Association Water System Consolidation project (the "Project") for the System.

WHEREAS, the Agency has applied for and obtained an Expedited Drinking Water Grant (the "Grant") from the California State Water Resources Control Board (the "State Water Board") to provide the funds needed to pay for the Project.

WHEREAS, in connection with the Grant, the Agency must enter into the following agreement, which has been presented at this meeting for approval:

(1) Expedited Drinking Water Grant Agreement No. D2302024 by and between the Agency and the State Water Board, attached hereto as Exhibit A ("Grant Agreement").

WHEREAS, the Grant Agreement is necessary to accomplish the completion and funding of the Grant and eventual distribution of Grant proceeds to the Agency to fund the Project.

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the entering into of the documents described above.

NOW, THEREFORE, the Santa Clarita Valley Water Agency hereby resolves as follows:

SECTION 1. The Agency hereby specifically finds and declares that the statements, findings and determinations of the Agency set forth in the preambles of the documents approved herein are true and correct.

SECTION 2. The Grant Agreement is hereby approved and each of the President, the General Manager, and their written designees (each an "Authorized Officer" and together, the "Authorized Officers"), acting alone, is hereby authorized and directed to execute and deliver the Grant Agreement in the name of and on behalf of the Agency, in substantially the form now before this meeting, but with such changes, modifications, additions and deletions therein as shall be deemed necessary, desirable or appropriate by the Authorized Officer or Authorized Officers. Approval of any such changes, modifications, additions and deletions shall be conclusively

evidenced by the execution and delivery of the Grant Agreement by one or more Authorized Officers.

SECTION 3. Each Authorized Officer is hereby appointed as an authorized officer of the Agency for all purposes required by the Grant Agreement, and such Authorized Officers are hereby authorized, empowered, and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the foregoing actions.

SECTION 4. The Authorized Officers are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this Resolution and to effectuate the Grant and the Grant Agreement. Such actions heretofore taken by an Authorized Officer are hereby ratified, confirmed and approved.

SECTION 5. This Resolution shall take effect immediately upon its passage.

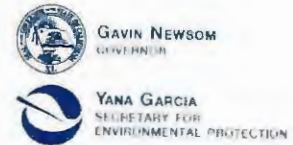
ADOPTED this 18th day of June, 2024.

EXHIBIT A
GRANT AGREEMENT

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EXHIBIT A



State Water Resources Control Board

May 10, 2024

Santa Clarita Valley Water Agency
Attn: Matthew Stone, General Manager
27234 Bouquet Canyon Road
Santa Clarita, CA 91350

Agreement Number: D2302024
Project Number: EDWG-1910017-003C

Please review, and if appropriate, electronically sign the signature page of the Agreement via Adobe Sign. Once electronically signed, the Agreement will be routed automatically to the next signer. You will automatically receive a copy of the fully executed Agreement via Adobe Sign once the final signer has signed. This Agreement cannot be considered binding by either party until executed by the State Water Resources Control Board (State Water Board).

For the Funding Agreement to be executed by the State Water Board, the following items **must also be returned electronically with the signed signature pages**: The Opinion will need to be dated and signed on or after the date the agreement is signed. Counsel can file and attach the letters and submit them back to Adobe.

1. Opinion of General Counsel.

Be aware that all projects receiving funding must comply with all applicable implementing guidelines and regulations adopted by the California Department of Industrial Relations (DIR), regarding state prevailing wage requirements. You must contact DIR for guidance on how to comply. Information can be found at: <http://www.dir.ca.gov/lcp.asp>.

We strive to provide superior service to our recipients and would appreciate your feedback on the application process. Please assist us in completing a 5-minute Customer Satisfaction Survey at <https://www.surveymonkey.com/s/DWSRFSatisfaction> so we can continue to improve on our service and process. Your comments are valuable to the success of the DWSRF Program. Thank you for your time and we look forward to continuing to work with you.

Ms. Shawna Bell may be contacted at (916) 449-5636 or Shawna.bell@waterboards.ca.gov.

Enclosures

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov



EXPEDITED DRINKING WATER GRANT

AGREEMENT No. D2302024
by and between
SANTA CLARITA VALLEY WATER AGENCY ("Recipient")
AND
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD ("State Water Board")
for the purpose of the
New Mint Association Water System Consolidation ("Project")
Project No. EDWG-1910017-003C

-
- Senate Bill 129 (Stats. 2021, Ch. 69), Item 3940-106-0001 of Section 2.00 of the Budget Act of 2021, Provision 1 and Resolution Nos. 2023-0006 and 2023-0021.

PROJECT FUNDING AMOUNT: \$3,608,994
ESTIMATED REASONABLE PROJECT COST: \$3,708,994

ELIGIBLE WORK START DATE: APRIL 1, 2023
ESTIMATED COMPLETION OF CONSTRUCTION DATE: DECEMBER 31, 2025
PROJECT COMPLETION DATE: DECEMBER 31, 2025
FINAL REIMBURSEMENT REQUEST DATE: MARCH 1, 2026
RECORDS RETENTION END DATE: DECEMBER 31, 2061

1. The State Water Board and the Recipient mutually promise, covenant, and agree to the terms, provisions, and conditions of this Agreement, including the following Exhibits, which are attached hereto or are incorporated by reference:
 - EXHIBIT A – SCOPE OF WORK AND SCHEDULE
 - EXHIBIT B – FUNDING PROVISIONS
 - EXHIBIT C – GENERAL TERMS AND CONDITIONS
 - EXHIBIT D – SPECIAL CONDITIONS

2. The following documents are also incorporated by reference, as well as any documents incorporated by reference in Exhibit D:
 - the Final Plans & Specifications, including any amendments, as approved by the Division, which are the basis for the construction contract to be awarded by the Recipient;
 - the Drinking Water System Permit No. 04-15-00P-007, and any amendments thereto;

3. Party Contacts during the term of this Agreement are:

State Water Board		Santa Clarita Valley Water Agency	
Section:	Division of Financial Assistance		
Name:	Ruben Mora, Project Manager	Name:	Matthew Stone, General Manager
Address:	1001 I Street, 16th Floor	Address:	27234 Bouquet Canyon Road
City, State, Zip:	Sacramento, CA 95814	City, State, Zip:	Santa Clarita, CA 91350
Phone:	(916) 341-5387	Phone:	(661) 964-3991
Email:	Ruben.Mora@waterboards.ca.gov	Email:	mstone@scvwa.org

Each party may change its contact upon written notice to the other party. While Party Contacts are contacts for day-to-day communications regarding Project work, the Recipient must provide official communications and notices to the Division's Deputy Director.

4. Conditions precedent to this Agreement are set forth as follows:
 - (a) The Recipient must deliver to the Division a resolution authorizing this Agreement and identifying its authorized representative by title.
 - (b) The Recipient must deliver an opinion of general counsel satisfactory to the State Water Board's counsel dated on or after the date that the Recipient signs this Agreement.

5. The Recipient represents, warrants, and commits to the following as of the Eligible Work Start Date and continuing thereafter for the term of this Agreement, which shall be at least until the Records Retention End Date:
 - (a) The Recipient agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents.
 - (b) The execution and delivery of this Agreement, including all incorporated documents, has been duly authorized by the Recipient. Upon execution by both parties, this Agreement constitutes a valid and binding obligation of the Recipient, enforceable in accordance with its terms, except as such enforcement may be limited by law.
 - (c) None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of Recipient. The

Recipient is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. The Recipient is able to pay its debts as they become due. The Recipient maintains sufficient insurance coverage considering the scope of this Agreement, including, for example but not necessarily limited to, general liability, automobile liability, workers compensation and employer liability, professional liability.

- (d) The Recipient is in compliance with all State Water Board funding agreements to which it is a party.
- 6. This Agreement, and any amendments hereto, may be executed and delivered in any number of counterparts, each of which when delivered shall be deemed to be an original, but such counterparts shall together constitute one document. The parties may sign this Agreement, and any amendments hereto, either by an electronic signature using a method approved by the State Water Board or by a physical, handwritten signature. The parties mutually agree that an electronic signature using a method approved by the State Water Board is the same as a physical, handwritten signature for the purposes of validity, enforceability, and admissibility.
- 7. The Recipient has reviewed and fully understands the provisions and requirements of this Agreement. The Recipient has reviewed and affirms the representations and warranties in this Agreement.

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

SANTA CLARITA VALLEY WATER AGENCY:

STATE WATER RESOURCES CONTROL BOARD:

By: _____
Name: Matt Stone
Title: General Manager

By: _____
Name: Joe Karkoski
Title: Deputy Director
Division of Financial Assistance

Date: _____

Date: _____

EXHIBIT A – SCOPE OF WORK AND SCHEDULE

A.1 PROJECT PURPOSE AND DESCRIPTION.

The Project is for the benefit of the New Mint Association (NMA) via Recipient and has a Useful Life of at least 50 years. The funding under this Agreement will be used to fully replace, submeter NMA's existing 70 connections, and consolidate the distribution system of NMA into Santa Clarita Valley Water (Recipient) for domestic water service. The Project will allow the dissolution of NMA as a corporate entity, improve system redundancy, fire flow, and overall system reliability.

A.2 SCOPE OF WORK.

Portions of this scope of work may be funded through separate agreements or programs, including agreements with third-party technical assistance providers. Such tasks may still be included herein to clearly document expectations of the Recipient regarding implementation of the Project under this Agreement. Any costs funded through other agreements or programs cannot be submitted for reimbursement under this Agreement.

The Recipient agrees to do the following:

1. Project Management
 - 1.1 Provide all technical and administrative services as needed for Project completion; monitor, supervise, and review all work performed; and coordinate budgeting and scheduling to ensure the Project is completed within budget, on schedule, and in accordance with approved procedures, applicable laws, and regulations.
 - 1.2 Notify the Project Manager at least fifteen (15) working days in advance of upcoming meetings, workshops, and trainings.
 - 1.3 Conduct periodic and final site visits with the Project Manager.
 - 1.4 Conduct pre-, during, and post-construction photo monitoring at the Project site and submit to the Project Manager as part of Progress Reports.
2. Initial Submissions
 - 2.1 Submit the mandatory Technical, Managerial, and Financial (TMF) Assessment elements, including Budget/Capital Improvement Plan, Consolidation Feasibility, Ownership, and Water Rights, to the Project Manager for approval.
 - 2.1.1 Mandatory TMF elements must be met to the satisfaction of the Division prior to Bid Solicitation Approval.
 - 2.2 Submit the EDWG Financial Security Package to the Project Manager for approval.
 - 2.2.1 Division review and approval must be complete prior to Bid Solicitation Approval.

- 2.3 Complete necessary work to resolve any incomplete items identified by Division after the Division reviews submittals for Items 2.1 and 2.2.
- 2.4 Submit the professional engineering services contract(s) to the Project Manager for review and approval prior to disbursement of funds for costs incurred under such contract(s).

3. Environmental Compliance, Permitting, and Approvals

No construction or construction-related activities, including construction bid solicitation, is authorized until the California Environmental Quality Act (CEQA) process, permitting, access negotiations and other required approvals are complete.

- 3.1 Complete documentation required under the CEQA for the proposed construction project.
 - 3.1.1 Submit the draft CEQA document or Notice of Exemption, as applicable, to the Project Manager for comment.
 - 3.1.2 Submit the complete EDWG Program Environmental Package to the Project Manager, including one of the following: the Notice of Exemption filed with the County Clerk and with the Governor's Office of Planning and Research, State Clearinghouse; or the final CEQA document (Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report), Mitigation Monitoring and Reporting Plan, comments and responses, adoption/certification resolution, and the Notice of Determination filed with the County Clerk and the Governor's Office of Planning and Research.
 - 3.1.3 Obtain written concurrence from the Project Manager confirming the State Water Board has made its own environmental findings if applicable and concurs that implementation/construction may proceed. The State Water Board may deem the Project ineligible for funding if construction begins prior to the Division's issuance of this written approval.
- 3.2 Obtain all public agency approvals, entitlements, permits, and agreements, if any, that are required for Project implementation before field work begins.
 - 3.2.1 Submit evidence of any necessary California Public Utilities Commission (CPUC) approvals and notice to the CPUC of the receipt of grant funds.
 - 3.2.2 If the Project is carried out on lands not owned by the Recipient, the Recipient must obtain adequate property rights or rights of way for the Useful Life of the Project.
 - 3.2.3 If the Project requires or involves the diversion or appropriation of water, the Recipient must submit appropriate documentation showing that Recipient has acquired necessary water rights.
 - 3.2.4 If the Project is a consolidation, the Recipient must submit an executed copy of the consolidation agreement(s) in a form satisfactory to the Division. Recipients

are strongly advised to share a draft of the consolidation agreement(s) with the Project Manager, and to incorporate comments from the Project Manager before the agreement is finalized.

- 3.2.5 Submit evidence of any necessary Local Agency Formation Commission approvals.
- 3.2.6 Submit a list and signed copies of any other necessary approvals, entitlements, permits, and agreements to the Project Manager.

4. Planning, Design, and Engineering

- 4.1 Prepare an Engineering Report, Technical Memo, or similar document to support the design plans and specifications in Item 4.2 and submit to the Project Manager for comment.
- 4.2 Prepare the fifty percent (50%) design plans and specifications and submit to the Project Manager for approval. The Project shall include:

Distribution System Components

- Install approximately 3,400 linear feet of new 8-inch water mains and related valves and fittings.
- Install approximately six (6) hydrants and related fittings.

Consolidation Components

- Consolidate NMA customers into the Recipient's service area.
- Abandon in place the existing distribution system per Recipient's Standards
- Remove existing 2-master meter and meter box.
-

Additional Project Components

- Install approximately 70 meters, related service lines, fittings, and meter boxes.
- Install related surface improvements and restorations.

- 4.3 Complete the one hundred percent (100%) design plans and specifications and prepare a summary identifying any changes from the fifty percent (50%) plans in Item 4.2. Submit the one hundred percent (100%) design plans and specifications and summary of changes for the Project to the Project Manager for approval.

5. Bid Solicitation

- 5.1 Complete the bid documents in accordance with the approved design plans and specifications in Item 4.3 and submit to the Project Manager for approval.
- 5.2 Complete EDWG Request for Bid Solicitation Approval Form, after obtaining: TMF approval in Item 2.1, Financial Security Package approval in Item 2.2, environmental clearance in Item 3.1.3, and the necessary approvals, entitlements, permits, and

agreements in Item 3.2. Submit to the Project Manager to obtain written Bid Solicitation Approval.

- 5.3 Advertise the Project for bid after receiving Project Manager approval in Item 5.2. Submit complete EDWG Final Budget Approval (FBA) Form, including necessary attachments, such as the advertised bid documents and bid summary, to obtain written FBA from the Project Manager.

6. Construction and Implementation

Construction, equipment procurement, or acquisition costs are not eligible for reimbursement prior to FBA.

- 6.1 After receiving FBA, award the construction contract(s) and submit the Notice(s) to Proceed and awarded contract(s) for the Project to the Project Manager.
- 6.2 Submit any proposed changes that arise during construction that may affect the Project's benefits and components listed in Item 4.2, schedule, or costs to the Project Manager for approval prior to proceeding with the changes.
- 6.3 Submit the necessary TMF Assessment elements to the Project Manager by the Completion of Construction.
 - 6.3.1 Prior to disbursement of the final 10% of the total Project Costs, necessary TMF elements must be demonstrated to the satisfaction of the Division, which may include elements that will be subsequently completed under DDW supervision.
- 6.4 Submit any required drinking water permit amendment application documents to the regulating agency (Division of Drinking Water, Local Primacy Agency, County Health Department, etc.) and the Project Manager before the Completion of Construction (if applicable).
- 6.5 Construct the Project in accordance with the approved design plans and specifications in Item 4.3.
- 6.6 Expeditiously initiate Project operations upon Completion of Construction

A.3 SIGNAGE.

The Recipient must place a professionally prepared sign at least four feet tall by eight feet wide made of ¾ inch thick exterior grade plywood or other approved material in a prominent location on the Project site and must maintain the sign in good condition for the duration of Project implementation. The sign may

include another agency’s required information and must include, prominently displayed, the following disclosure statement and color logos (available from the Division):



“Funding for this project has been provided in full or in part under the Budget Act of 2021 through an agreement with the State Water Resources Control Board.”

A.4 SCHEDULE.

Failure to provide items by the due dates indicated in the table below may constitute a material violation of this Agreement. The Division may adjust the dates in the “Estimated Due Date” column of this table, but “Critical Due Date” adjustments will require an amendment to this Agreement. As applicable for specific submittals, the Recipient must plan adequate time to solicit, receive, and address comments prior to submitting the final submittal.

The Recipient must substantially complete construction by the approved Estimated Completion of Construction date unless an extension is granted by the Division in writing. The Recipient must deliver any request for extension no less than 30 days prior to the approved Estimated Completion of Construction date. Late requests may not be honored.

The Recipient must complete and submit all work in time to be approved by the Division prior to the approved Estimated Due Date for the Final Reimbursement Request

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
EXHIBIT A.2 – SCOPE OF WORK			
1.	Project Management		
1.1	Technical and Administrative Services	N/A	Ongoing
1.2	Notification of Upcoming Meetings, Workshops, and Trainings	N/A	As Needed
1.3	Site Visits	N/A	As Needed
1.4	Photo Documentation	N/A	Ongoing
2.	Early Submissions		
2.1	Mandatory TMF Assessment Elements	N/A	Completed
2.2	EDWG Financial Package	N/A	Completed
2.3	Complete any incomplete items identified by Division after review of 2.1 and 2.2.	N/A	Completed
2.4	Professional Engineering Services Contract	N/A	N/A
3.	Environmental Compliance and Permitting		
3.1.1	Draft CEQA	N/A	Completed
3.1.2	EDWG Environmental Package and Final CEQA	N/A	Completed

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
3.2	Agency Approvals		
3.2.1	California Public Utilities Commission Approvals	N/A	NA
3.2.2	Property Rights or Rights of Way	N/A	NA
3.2.3	Documentation of Necessary Water Rights	N/A	N/A
3.2.4	Consolidation Agreement(s)	N/A	November 1, 2024
3.2.5	Local Agency Formation Commission Approvals	N/A	NA
3.2.6	List and Signed Approvals, Entitlements Permits, and Agreements	N/A	December 1, 2024
4.	Planning, Design, and Engineering		
4.1	Engineering Report, Technical Memo, or Similar Document	N/A	Completed
4.2	50% Plans and Specifications	N/A	9/30/2024
4.3	100% Plans and Specifications	N/A	12/31/2024
5.	Bid Solicitation		
5.1	Bid Documents	N/A	12/31/2024
5.2	EDWG Request for Bid Solicitation Approval	N/A	12/31/2024
5.3	EDWG Request for Final Budget Approval Form	N/A	2/28/2025
6.	Construction and Implementation		
6.1	Notice(s) to Proceed	N/A	2/28/2025
6.2	Notification of Project Changes	N/A	As Needed
6.3	Necessary TMF Elements	N/A	N/A
6.4	Permit Amendment Application Documents	N/A	12/31/2025
6.5	Completion of Construction	N/A	12/31/2025
6.6	Project Completion	12/31/2025	N/A
A.5	Progress Reports	Quarterly	N/A

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
A.6	Project Completion Report	N/A	1/31/2026
A.7	Final Inspection and Certification	N/A	1/31/2026
EXHIBIT B AND C – FUNDING TERMS, BUDGET COSTS AND REIMBURSEMENT			
B.6.1 and B.6.2	First Reimbursement Request	No later than 90 days from Agreement Execution Date	N/A
C.16	Final Reimbursement Request	March 1, 2026	N/A

A.5 PROGRESS REPORTS.

The Recipient must provide a progress report to the Division each quarter, beginning no later than 90 days after execution of this Agreement. The Recipient must provide a progress report with each Reimbursement Request. Failure to provide a complete and accurate progress report may result in the withholding of Project Funds, as set forth in Exhibits B and C. A progress report must contain the following information:

1. A summary of progress to date including a description of progress since the last report, percent construction complete, percent contractor invoiced, and percent schedule elapsed;
2. Discussion of any delays experienced or anticipated in meeting the project schedule provided in Section A.4 and measures to meet the schedule;
3. A description of compliance with environmental requirements, including a discussion of the status of the Recipient's compliance with
 - a. any Mitigation Monitoring and Reporting Program adopted for the Project; and
 - b. any permits issued for the Project that include water quality elements, including Clean Water Act, Section 401 Certification or Section 404 Permit, Lake and Streambed Alteration Agreement, and/or Rivers and Harbors Act, Section 10 Permit issued by the relevant state and federal agencies.
4. A listing of change orders including amount, description of work, and change in contract amount and schedule; and
5. Any problems encountered, proposed resolution, schedule for resolution, and status of previous problem resolutions.

A.6 PROJECT COMPLETION REPORT.

- (a) The Recipient must submit a Project Completion Report to the Division with a copy to the appropriate District Office on or before the due date established by the Division and the Recipient at the time of final project inspection. The Project Completion Report must include the following:
 - i. Description of the Project,
 - ii. Description of the water quality problem the Project sought to address,
 - iii. Discussion of the Project's likelihood of successfully addressing that water quality problem in the future, and
 - iv. Summary of compliance with applicable environmental requirements, including a discussion of the status of the Recipient's compliance with
 - a. any Mitigation Monitoring and Reporting Program adopted for the Project; and
 - b. any permits issued for the Project that include water quality elements, including Clean Water Act, Section 401 Certification or Section 404 Permit, Lake and Streambed Alteration Agreement, and/or Rivers and Harbors Act, Section 10

Permit issued by the relevant state and federal agencies.

- (b) If the Recipient fails to submit a timely Project Completion Report, the State Water Board may stop processing pending or future applications for new financial assistance, withhold reimbursements under this Agreement or other agreements, and begin administrative proceedings.

A.7 FINAL PROJECT INSPECTION AND CERTIFICATION.

Upon completion of the Project, the Recipient must provide for a final inspection and must certify that the Project has been completed in accordance with this Agreement, any final plans and specifications submitted to the State Water Board, and any amendments or modifications thereto. If the Project involves the planning, investigation, evaluation, design, or other work requiring interpretation and proper application of engineering, or other professionals, the final inspection and certification must be conducted by a California Registered Civil Engineer or other appropriate California registered professional. The results of the final inspection and certification must be submitted to the Project Manager.

EXHIBIT B – FUNDING PROVISIONS

B.1 ESTIMATED REASONABLE COST AND PROJECT FUNDS.

The estimated reasonable cost of the total Project is set forth on the Cover Page of this Agreement and is greater than or equal to the funding anticipated to be provided by the State Water Board under this Agreement. Subject to the terms of this Agreement, the State Water Board agrees to provide Project Funds not to exceed the amount of the Project Funding Amount set forth on the Cover Page of this Agreement.

B.2 RECIPIENT CONTRIBUTIONS.

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

If the Recipient obtains funds for the Project from any third parties, the Recipient shall immediately notify the Division. The amount of this Agreement may be reduced to reflect such funds.

B.3 VERIFIABLE DATA.

Upon request by the Division, the Recipient must submit verifiable data to support deliverables specified in the Scope of Work. The Recipient's failure to comply with this requirement may be construed as a material breach of this Agreement.

B.4 BUDGET COSTS.

Estimated budget costs are contained in the Summary Project Cost Table.

ITEM	DESCRIPTION	TOTAL ESTIMATED COST	PROJECT FUNDING AMOUNT
A	Construction Cost	\$2,000,000	\$1,900,000
B	Pre-Purchased Material/Equipment	\$0	\$0
C	Real Property/Easement Acquisition	\$0	\$0
D	Change Order Contingency	\$586,994	\$586,994
E	Force Account	\$0	\$0
F	Connection Fees	\$0	\$0
G	Allowances (Soft Costs)	\$650,000	\$650,000
H	Conditional Costs	\$472,000	\$472,000
TOTAL PROJECT COSTS		\$3,708,994	\$3,608,994

The Division's Final Budget Approval(s) and related Forms 259 and 260 will document a more detailed budget of eligible Project Costs and Project funding amounts. Construction of the Project may be completed in phases only with written approval of the Division. If construction proceeds under separate phases, the Recipient must submit a Final Budget Approval package and receive Final Budget Approval from the Division for each phase.

The Recipient is prohibited from requesting disbursement amounts that represent Recipient's mark-ups to costs invoiced or otherwise requested by consultants or contractors.

Reimbursement of costs under the Conditional Costs line item is not authorized without the Division's written approval. The Conditional Costs line item is for increased costs and unforeseen items, provided that the costs are eligible and consistent with the approved scope of work of this Agreement and are determined to be reasonable and necessary by the Division. The Recipient must contact the Project Manager with any requests to use the Conditional Costs line item; approval is subject to the Division's discretion. The Division will not approve the use of Conditional Costs for construction costs and construction change orders until after it has provided a Final Budget Approval for the Project.

Project Costs incurred prior to the Eligible Work Start Date on the cover page of this Agreement are not eligible for reimbursement.

B.5 LINE ITEM ADJUSTMENTS.

1. The Recipient may submit a request for an adjustment between line items of the budget in writing to the Project Manager for the Division's review and approval. Such adjustment may not increase or decrease the total Project Funding Amount. The Recipient shall submit a copy of the Agreement budget 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.
2. The Division may adjust the funding amounts of the line items of the budget as follows, in accordance with any applicable rules. Under no circumstances may the sum of line items in the approved budget exceed the Project Funding Amount set forth on the Cover Page of this Agreement.
 - (a) The Division may adjust the budget for existing line items, other than the Contingency and Conditional Costs line items, by shifting funds from one line item to another. The sum of all line item adjustments approved by the Division for this Agreement must not exceed fifteen percent (15%) of the total Project Funding Amount. If the Division modifies the budget (i) at the time of the Division's Final Budget Approval(s), (ii) by amending the Agreement, or (iii) following the Recipient's submittal of its final Reimbursement Request, then any adjustments that were made prior to such modification of the budget shall not be counted in the calculation of the 15% limit.
 - (b) At the time of the Division's Final Budget Approval(s) and/or any amendments to the Agreement, the Division may adjust the amounts allocated to the line items of the budget at its discretion. Any adjustments at these times are not subject to the 15% limit in paragraph a.
 - (c) Following the Recipient's submittal of its final Reimbursement Request, the Division may adjust the amounts allocated to the line items of the budget at its discretion. Any adjustments at this time are not subject to the 15% limit in paragraph a.
3. No line item adjustment is authorized until the Division provides written approval for the adjustment to the Recipient. Any line item adjustments to the budget that are due to a change in scope of work will require an Agreement amendment.

B.6 REIMBURSEMENT PROCEDURE.

Except as may be otherwise provided in this Agreement, reimbursements will be made as follows:

1. Upon execution and delivery of this Agreement by both parties, the Recipient may request immediate reimbursement of any eligible incurred planning and design allowance costs through submission to the State Water Board of the Reimbursement Request Form 260 and Form 261, or any amendment thereto, duly completed and executed, except that the Recipient may not acquire or request reimbursement of costs for materials, equipment, or land until after any required environmental review process is complete

and the Division provides written notice that such items may be reimbursed under this Agreement. To be eligible for reimbursement, Project Costs, including any planning and design allowance costs, must have been incurred in compliance with all applicable requirements, including the state cross-cutting requirements listed in Exhibits C and D.

2. The Recipient must submit a Reimbursement Request for costs incurred prior to the date this Agreement is executed by the State Water Board no later than ninety (90) days after this Agreement is executed by the State Water Board. Late Reimbursement Requests may not be honored.
3. Additional Project Funds will be promptly disbursed to the Recipient upon receipt of Reimbursement Request Form 260 and Form 261, or any amendment thereto, duly completed and executed by the Recipient for incurred costs consistent with this Agreement, along with receipt of progress reports due under this Agreement.
4. The Recipient shall not solicit construction bids or conduct any construction activities until the Division has provided written bid solicitation approval. The Division will not provide bid solicitation approval until after the Division completes its applicable review, which will include but not be limited to environmental review.
5. The Recipient must not request reimbursement for any Project Cost until such cost has been incurred and is currently due and payable by the Recipient, although the actual payment of such cost by the Recipient is not required as a condition of Reimbursement Request. Supporting documentation (e.g., receipts) must be submitted with each Reimbursement Request. The amount requested for Recipient's administration costs must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = total amount claimed). Reimbursement of Project Funds will be made only after receipt of a complete, adequately supported, properly documented, and accurately addressed Reimbursement Request. Upon request by the Division, supporting documents for professional and administrative services must include the employees' names, classifications, labor rates, hours worked, and descriptions of the tasks performed. Reimbursement Requests submitted without supporting documents may be wholly or partially withheld at the discretion of the Division.
6. The Recipient must spend Project Funds within 30 days of receipt. If the Recipient earns interest earned on Project Funds, it must report that interest immediately to the State Water Board. The State Water Board may deduct earned interest from future reimbursements.
7. The Recipient must not request a reimbursement unless that Project Cost is allowable, reasonable, and allocable.
8. Notwithstanding any other provision of this Agreement, no reimbursement shall be required at any time or in any manner which is in violation of or in conflict with federal or state laws, policies, or regulations.

Notwithstanding any other provision of this Agreement, the Recipient agrees that the State Water Board may retain an amount equal to ten percent (10%) of the Project Funding Amount until Project Completion. Any retained amounts due to the Recipient will be promptly disbursed to the Recipient, without interest, upon Project Completion.

No Project construction shall proceed until after the Division has provided approval for construction to proceed. Construction costs incurred prior to the date that the Division provides approval to proceed are not eligible for reimbursement. No disbursement for construction costs shall be provided until after the Division has approved the final budget form(s) submitted by the Recipient including the applicable costs.

B.7 REVERTING FUNDS AND DISENCUMBRANCE.

In the event the Recipient does not submit Reimbursement Requests for all funds encumbered under this Agreement timely, any remaining funds revert to the State. The State Water Board may notify the Recipient that the project file is closed, and any remaining balance will be disencumbered and unavailable for further use under the Agreement.

EXHIBIT C – GENERAL TERMS AND CONDITIONS

GENERAL TERMS AND CONDITIONS 2019-NOV is posted at
https://www.waterboards.ca.gov/water_issues/programs/grants_loans/general_terms.html and replicated below:

1. DEFINITIONS. Unless otherwise specified in this Agreement, each capitalized term used in this Agreement has the following meaning:
 - “Agreement” means this agreement, including all exhibits and attachments hereto.
 - “Cover Page” means the front page of this Agreement.
 - “Days” means calendar days unless otherwise expressly indicated.
 - “Deputy Director” means the Deputy Director of the Division.
 - “Division” means the Division of Financial Assistance of the State Water Board or any other division or unit of the State Water Board authorized to administer this Agreement.
 - “Event of Default” means the occurrence of any of the following events:
 - a) A representation or warranty made by or on behalf of the Recipient in this Agreement or in any document furnished by or on behalf of the Recipient to the State Water Board pursuant to this Agreement shall prove to have been inaccurate, misleading or incomplete in any material respect;
 - b) Failure by the Recipient to observe and perform any covenant, condition, or provision in this Agreement, which failure shall continue for a period of time, to be determined by the Division;
 - c) Initiation of proceedings seeking arrangement, reorganization, or any other relief under any applicable bankruptcy, insolvency, or other similar law; the appointment of or taking possession of the Recipient’s property by a receiver, liquidator, assignee, trustee, custodian, conservator, or similar official; the Recipient’s entering into a general assignment for the benefit of creditors; the initiation of resolutions or proceedings to terminate the Recipient’s existence, or any action in furtherance of any of the foregoing;
 - d) A determination pursuant to Gov. Code section 11137 that the Recipient has violated any provision in Article 9.5 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code; or
 - e) Loss of the Recipient’s rights, licenses, permits, or privileges necessary for the Project, or the occurrence of any material restraint on the Recipient’s enterprise by a government agency or court order.
 - “Final Reimbursement Request Date” means the date set forth as such on the Cover Page of this Agreement, after which date, no further reimbursements or disbursements may be requested.
 - “Fiscal Year” means the period of twelve (12) months terminating on June 30 of any year.
 - “GAAP” means generally accepted accounting principles, the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor, or the Uniform System of Accounts, as adopted by the California Public Utilities Commission for water utilities.
 - “Material Obligation” means an obligation of the Recipient that is material to this transaction.

- “Party Contact” means, for the Recipient, the Authorized Representative of the Recipient or any designee of the Authorized Representative, and, for the State Water Board, the Division staff set forth in Section 2 of this Agreement.
 - “Project” means the Project funded by this Agreement as described in Exhibits A and B and in the documents incorporated by reference herein.
 - “Project Completion” means, as determined by the Division, that the Project is complete to the reasonable satisfaction of the Division.
 - “Project Costs” means the incurred costs of the Recipient which are eligible for funding under this Agreement, pursuant to applicable statutes, policy, regulations, or guidelines.
 - “Project Funding Amount” means the maximum amount payable under this Agreement, as set forth on the Cover Page.
 - “Project Funds” means all moneys disbursed to the Recipient by the State Water Board for eligible Project Costs pursuant to this Agreement.
 - “Project Manager” means the person designated by the State Water Board to manage performance of this Agreement. The Project Manager is set forth on the Cover Page.
 - “Records Retention End Date” means the last date that the Recipient is obligated to maintain records related to this Agreement and is set forth on the Cover Page of this Agreement.
 - “Regional Water Quality Control Board” or “Regional Water Board” means the appropriate Regional Water Quality Control Board.
 - “Reimbursement Period” means the period during which Project Funds may be disbursed.
 - “Reimbursement Request” means the Recipient’s request for Project Funds from the State Water Board as set forth in Exhibit B.
 - “State” means State of California.
 - “State Water Board” means the State Water Resources Control Board.
 - “Work Completion” means the Recipient’s submittal of all work set forth under Exhibit A for review and approval by the Division.
 - “Work Completion Date” means the date set forth on the Cover Page of this Agreement and is the last date on which Project Costs may be incurred under this Agreement.
 - “Year” means calendar year unless otherwise expressly indicated.
2. ACCESS, INSPECTION, AND PUBLIC RECORDS. The Recipient must ensure that the State Water Board, the State Auditor, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times through the Records Retention End Date or useful life of the Project, whichever is longer. The Recipient acknowledges that, except for a subset of information regarding archaeological records and personally identifiable information, the Project records and locations may be public records, including but not limited to all of the submissions accompanying the application, all of the documents incorporated into this Agreement by reference, and all reports, Reimbursement Requests, and supporting documentation submitted hereunder.

3. ACCOUNTING AND AUDITING STANDARDS; FINANCIAL MANAGEMENT SYSTEMS. The Recipient must maintain GAAP-compliant project accounts, including GAAP requirements relating to the reporting of infrastructure assets. Without limitation of the requirement to maintain Project accounts in accordance with GAAP, the Recipient must:
 - (a) Establish an official file for the Project which adequately documents 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 Project 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 Project Funds disbursed under this Agreement;
 - (d) Establish an accounting system which will accurately depict final total costs of the Project if authorized 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; and
 - (f) If the Recipient uses its own employees, equipment, or resources for any phase of the Project, accounts will be established which reasonably document all employee hours charged to the Project and the associated tasks performed by each employee.
4. AMENDMENT. No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by both the Recipient and the Deputy Director or designee and approved as required.
5. ASSIGNABILITY. This Agreement is not assignable by the Recipient, either in whole or in part, without the consent of the State Water Board. Amendment of the Agreement may be required.
6. AUDIT. The Division may call for an audit of financial information relative to the Project if the Division determines that an audit is desirable to assure program integrity or if an audit becomes necessary because of State or federal requirements. If an audit is called for, the audit must be performed by a certified public accountant independent of the Recipient and at the cost of the Recipient. The audit must be in the form required by the Division. The Recipient must return, or ensure the return of, any audit disallowances within 30 days.
7. BONDING. Where construction contractors are used, the Recipient must not authorize construction to begin until each contractor has furnished a performance bond in favor of the Recipient in the following amounts: faithful performance (100%) of contract value; labor and materials (100%) of contract value. This requirement shall not apply to any contract for less than \$25,000.00.
8. COMPETITIVE BIDDING. Recipient must adhere to any applicable State law 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 must be let by competitive bid procedures which assure award of such contracts to the lowest responsive and responsible bidders. Recipient must not award a construction contract until a summary of bids and identification of the selected lowest responsible bidder is submitted to and approved in writing by the Division. Recipient must provide a full explanation if Recipient is proposing to award a construction contract to anyone other than the lowest responsible bidder.
9. COMPLIANCE WITH APPLICABLE LAWS, RULES, AND REQUIREMENTS. The Recipient must, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and State laws, rules, guidelines, regulations, and requirements and with provisions of the adopted environmental mitigation plan, if any, for the useful life of the Project.

10. **COMPUTER SOFTWARE.** The Recipient certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
11. **CONFLICT OF INTEREST.** The Recipient certifies that it, its owners, officers, directors, agents, representatives, and employees are in compliance with applicable State and federal conflict of interest laws and will remain in compliance for the useful life of the Project. 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. Public entities are required to have adopted conflict of interest codes and may be required to provide documentation of those codes to the Division.
12. **DATA MANAGEMENT.** The Recipient will undertake appropriate data management activities so that Project data can be incorporated into statewide data systems.
13. **DEBARRED, DISQUALIFIED, OR EXCLUDED CONTRACTORS.** The Recipient must not contract or allow subcontracting with excluded parties. The Recipient must not contract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which this funding is authorized. For any work related to this Agreement, the Recipient must not contract with any individual or organization on the State Water Board's List of Disqualified Businesses and Persons that is identified as debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which funding under this Agreement is authorized. The State Water Board's List of Disqualified Businesses and Persons is located at:
http://www.waterboards.ca.gov/water_issues/programs/enforcement/fwa/dbp.shtml
14. **DRUG-FREE WORKPLACE.** The Recipient certifies that it will provide a drug-free workplace in compliance with the Drug-Free Workplace Act (Gov. Code. §§ 8350-8357). The Recipient shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the Recipient's workplace and specifying the actions to be taken against employees for violations of the prohibition. The Recipient shall establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace, the Recipient's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and penalties that may be imposed upon employees for drug abuse violations. The Recipient shall provide that every employee who works on the Project receives a copy of the Recipient's drug-free workplace policy statement and agrees to abide by the terms of the statement as a condition of employment on the Project.
15. **ENVIRONMENTAL CLEARANCE.** No work that is subject to California Environmental Quality Act (CEQA) or the National Environmental Policy Act (NEPA) may proceed under this Agreement until the State Water Board has provided approval to proceed. Upon receipt and review of the Recipient's environmental documents, the State Water Board shall make the appropriate environmental findings before determining whether to approve construction or implementation funding for the Project under this Agreement. Providing approval for such construction or implementation funding is fully discretionary. The State Water Board may require changes in the scope of work or additional mitigation as a condition to providing construction or implementation funding under this Agreement. Recipient shall not perform any work subject to CEQA and/or NEPA before the State Water Board completes its environmental review and specifies any changes in scope or additional mitigation that may be required. Proceeding with work subject to CEQA and/or NEPA without approval by the State Water Board shall constitute a breach of a material provision of this Agreement. If this Project includes modification of a river or stream channel, the Recipient must fully mitigate environmental impacts resulting from the modification. The Recipient must provide documentation that the environmental impacts resulting from such modification will be fully mitigated considering all of the impacts of the modification and any mitigation, environmental enhancement, and environmental benefit resulting from the Project, and whether, on balance, any environmental enhancement or benefit equals or exceeds any negative environmental impacts of the Project.

16. **FINAL REIMBURSEMENT REQUEST.** The Recipient agrees to ensure that its final Reimbursement Request is received by the Division no later than the Final Reimbursement Request Date, unless prior approval has been granted by the Division. If the final Reimbursement Request is not received timely, the undisbursed balance of this Agreement may be deobligated.
17. **FRAUD AND MISUSE OF PUBLIC FUNDS.** All requests for disbursement must be accurate and signed by the Recipient or its Authorized Representative under penalty of perjury. All costs submitted pursuant to this Agreement must only be for the work or tasks set forth in this Agreement. The Recipient must not submit any invoice containing costs that are ineligible or have been reimbursed from other funding sources unless required and specifically noted as such (i.e., match costs). Any 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 cost is improper and will not be compensated. Any suspected occurrences of fraud, forgery, embezzlement, theft, or any other misuse of public funds may result in suspension of disbursements and, notwithstanding any other section in this Agreement, the termination of this Agreement requiring the immediate 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.
18. **FUNDING CONTINGENCY.** The State Water Board's disbursement of funds hereunder is contingent on the Recipient's compliance with the terms and conditions of this Agreement. The State Water Board's obligation to disburse funds is contingent upon the availability of sufficient funds to permit the disbursements provided for herein. If sufficient funds are not available for any reason, including but not limited to failure of the federal or State government to appropriate funds necessary for disbursement of funds, the State Water Board shall not be obligated to make any disbursements to the Recipient under this Agreement. If this Agreement's funding for any fiscal year expires due to reversion or is reduced, substantially delayed, or deleted by the Budget Act, by Executive Order, or by order or action of the Department of Finance, the State Water Board has the option to either cancel this Agreement with no liability accruing to the State Water Board, or offer an amendment to the Recipient to reflect the reduced amount. This provision shall be construed as a condition precedent to the obligation of the State Water Board to make any disbursements under this Agreement. Nothing in this Agreement shall be construed to provide the Recipient with a right of priority for disbursement over any other entity. If any disbursements due the Recipient under this Agreement are deferred because sufficient funds are unavailable, it is the intention of the State Water Board that such disbursement will be made to the Recipient when sufficient funds do become available, but this intention is not binding.
19. **GOVERNING LAW.** This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.
20. **RECIPIENT'S SHARE.** The Recipient agrees that it will provide for the payment of its full share, if any share is required, of Project Costs and that all costs connected with the Project will be timely paid by the Recipient.
21. **INDEMNIFICATION AND STATE REVIEWS.** The parties agree that review or approval of Project plans and specifications by the State Water Board is for administrative purposes only, including conformity with application and eligibility criteria, and expressly not for the purposes of design defect review or construction feasibility, and does not relieve the Recipient of its responsibility to properly plan, design, construct, operate, and maintain the Project. To the extent permitted by law, the Recipient agrees to indemnify, defend, and hold harmless the State Water Board and any trustee, and their officers, employees, and agents for the Bonds, if any (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, except those arising from the gross negligence or willful misconduct of the Indemnified Parties. The Recipient must also provide for the defense and indemnification of the Indemnified Persons in any contractual provision extending indemnity to the Recipient in any contract let for the performance of any work under this Agreement, and must cause the Indemnified Parties to be included within the scope of any provision for the indemnification and defense of the Recipient in any contract or subcontract. To the fullest extent permitted by law, the Recipient agrees to pay and discharge any judgment or award entered or made against Indemnified Persons with respect to any such claim or action, and any settlement, compromise or other voluntary resolution. The provisions of this section survive the term of this Agreement.

22. **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.
23. **INSPECTION.** Throughout the useful life of the Project, the State Water Board shall have the right to inspect the Project area to ascertain compliance with this Agreement.
24. **INTEGRATION.** This Agreement constitutes the complete and final agreement between the parties. No oral or written understanding or agreement not incorporated in this Agreement shall be binding on either party.
25. **LIENS.** The Recipient must not make any pledge of or place any lien on the Project or Project assets except upon consent of the Division.
26. **NO DISCRIMINATION.** The Recipient must comply with Government Code section 11135 and the implementing regulations (Cal. Code Regs, tit. 2, § 11140 et seq.), including, but not limited to, ensuring that no person is unlawfully denied full and equal access to the benefits of, or unlawfully subjected to discrimination in the operation of, the Project on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation as such terms are defined under California law, for as long as the Recipient retains ownership or possession of the Project. If Project Funds are used to acquire or improve real property, the Recipient must include a covenant of nondiscrimination running with the land in the instrument effecting or recording the transfer of such real property. The Recipient must comply with the federal American with Disabilities Act of 1990 and implementing regulations as required by Government Code section 11135(b). The Recipient's obligations under this section shall survive the term of this Agreement. During the performance of this Agreement, Recipient and its contractors and subcontractors must not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, sexual orientation, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family care leave, or genetic information, gender, gender identity, gender expression, or military and veteran status. The Recipient, its contractors, and subcontractors must ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Recipient, its contractors, and subcontractors must comply with the provisions of the Fair Employment and Housing Act and the applicable regulations promulgated thereunder. (Gov. Code, §12990, subs. (a)-(f) et seq.; Cal. Code Regs., tit. 2, § 7285 et seq.) Such regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. The Recipient, its contractors, and subcontractors must give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. The Recipient must include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

27. **NO THIRD-PARTY RIGHTS.** This Agreement creates no rights in and grants no remedies to any third party as a beneficiary of this Agreement.
28. **NO OBLIGATION OF THE STATE.** Any obligation of the State Water Board herein contained shall not be an obligation, debt, or liability of the State and any such obligation shall be payable solely out of the moneys encumbered pursuant to this Agreement.
29. **NON-WAIVER.** Nothing in this Agreement shall affect or impair the Recipient's obligation to undertake work under this Agreement or shall affect or impair the right of the State Water Board to bring suit to enforce such work. No delay or omission of the State Water Board in the exercise of any right arising upon an Event of Default shall impair any such right or be construed to be a waiver of any such Event of Default. The State Water Board may exercise from time to time and as often as shall be deemed expedient by the State Water Board, any remedy or right provided by law or pursuant to this Agreement. Any waiver of rights by the State Water Board with respect to a default or other matter arising under this Agreement at any time shall not be considered a waiver of rights with respect to any other default or matter.
30. **OTHER FUNDING SOURCES; INCOME RESTRICTIONS.** If funding for Project Costs is made available to the Recipient from sources other than this Agreement, the Recipient must notify the Division. The Recipient may retain such funding up to an amount which equals the Recipient's contribution to Project costs. To the extent allowed by requirements of other funding sources, excess funding must be remitted to the State Water Board. The Recipient agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Recipient as related to this Agreement must be paid by the Recipient to the State Water Board, to the extent that they are properly allocable to costs for which the Recipient has been reimbursed by the State Water Board under this Agreement.
31. **PERMITS AND AUTHORIZATIONS.** Recipient must procure all permits, licenses and other authorizations necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. Signed copies of any such permits or licenses must be submitted to the Division before any construction or implementation begins.
- Any contractors, outside associates, or consultants required by the Recipient in connection with the services covered by this Agreement shall be limited to such individuals or firms as were specifically identified and agreed to during negotiations for this Agreement, or as are specifically authorized by the State Water Board's Project 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 Project Manager.
32. **PREVAILING WAGES.** If applicable, the Recipient agrees to be bound by all applicable provisions of State Labor Code regarding prevailing wages. If applicable, the Recipient must monitor all agreements subject to reimbursement from this Agreement to ensure that the applicable prevailing wage provisions of the State Labor Code are being met. Division of Industrial Relations (DIR) requirements may be found at: <http://www.dir.ca.gov/lcp.asp>. For more information, please refer to DIR's Public Works Manual at: <http://www.dir.ca.gov/dlse/PWManualCombined.pdf>.
33. **PRIOR COSTS.** No costs incurred prior to the Eligible Work Start Date are eligible for reimbursement.
34. **PROFESSIONALS.** The Recipient agrees that only licensed professionals will be used to perform services under this Agreement where such services are called for. All technical reports required pursuant to this Agreement that involve planning, investigation, evaluation, design, or other work requiring interpretation and proper application of engineering, architectural, or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to Business and Professions Code, sections 5536.1, 6735, 7835, and 7835.1. As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

35. **RECORDS, INSPECTION, AUDITS, AND INTERVIEWS; RECORDS RETENTION.** The Recipient must maintain separate books, records and other material relative to the Project and retain such books, records, subcontracts, and other material until at least the Records Retention End Date set forth on the Cover Page of this Agreement. The Recipient must require that such books, records, and other material are subject at all reasonable times (at a minimum during normal business hours) to inspection, copying, and audit by the State Water Board, the Department of Finance, the California State Auditor, the Bureau of State Audits, or any authorized representatives of the aforementioned, including federal funding agencies and their auditors, if any. The Recipient must allow and must require its contractors to allow interviews during normal business hours of any employees who might reasonably have information related to such records. The Recipient agrees to include a similar duty regarding audit, interviews, and records retention in any contract or subcontract related to the performance of this Agreement. The provisions of this section survive the term of this Agreement.
36. **RELATED LITIGATION.** Under no circumstances may the Recipient use funds from any reimbursement under this Agreement to pay costs associated with any litigation the Recipient pursues against the State Water Board or any Regional Water Board. Regardless of the outcome of any such litigation, and notwithstanding any conflicting language in this Agreement, the Recipient agrees to complete the Project funded by this Agreement or to repay all of the disbursed funds plus interest.
37. **REMEDIES.** The State Water Board may enforce its rights under this Agreement by any judicial proceeding, whether at law or in equity. None of the remedies available to the State Water Board shall be exclusive of any other remedy, and each such remedy shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. The State Water Board may exercise any remedy, now or hereafter existing, without exhausting and without regard to any other remedy. Any dispute of the Recipient is limited to the rights and remedies provided to the Recipient under this Agreement and is subject to the procedures provided to the Recipient under this Agreement.
38. **REPORTS - AS NEEDED.** The Recipient must provide expeditiously any reports, data, and information reasonably required by the Division, including but not limited to material necessary or appropriate for evaluation of the funding program or to fulfill any reporting requirements of the State or federal government.
39. **RESPONSIBILITY FOR WORK.** The Recipient shall be responsible for all work and for persons or entities engaged in work performed pursuant to this Agreement, including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The Recipient shall be responsible for responding to any and all disputes arising out of its contracts for work on the Project, including, but not limited to, payment disputes with contractors and subcontractors. The State Water Board will not mediate disputes between the Recipient and any other entity concerning responsibility for performance of work.
40. **RIGHTS IN DATA.** The Recipient agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Agreement are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Recipient may copyright the same, except that, as to any work which is copyrighted by the Recipient, the State reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so, and to receive electronic copies from the Recipient upon request. The Recipient may disclose, disseminate and use in whole or in part, any final form data and information received, collected, and developed under this Agreement, subject to appropriate acknowledgement of credit to the State Water Board for financial support. The Recipient shall not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so.
41. **STATE WATER BOARD ACTION; COSTS AND ATTORNEY FEES.** 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.

42. **STATUS QUO.** If any action to enforce any right or exercise any remedy shall be brought and either discontinued or determined adversely to the State Water Board, then the State Water Board shall be restored to its former position, rights, and remedies as if no such action had been brought.
43. **TERMINATION, IMMEDIATE REPAYMENT, AND INTEREST:** This Agreement may be terminated by written notice at any time, at the option of the State Water Board, if:
- the Recipient has received funds as a result of a material misrepresentation in the funding application or other submitted document; or
 - 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 State Water Board.
- In the event of such termination, the Recipient agrees, upon demand, to immediately repay to the State Water Board an amount equal to the amount of Project Funds disbursed to the Recipient prior to such termination. In the event of termination, interest shall accrue on all amounts due at the highest legal rate of interest from the date that notice of termination is mailed to the Recipient to the date of full repayment by the Recipient.
44. **TIMING.** Time is of the essence. The Recipient must expeditiously proceed with and complete the Project. Failure to proceed according to the timelines set forth in this Agreement may require the Recipient to repay to the State Water Board all disbursed Project Funds.
45. **TRAVEL AND PER DIEM.** No work or travel outside the State of California is permitted under this Agreement unless the Division provides prior written authorization. No work or travel outside the United States of America is authorized. Failure to comply with this restriction may constitute an Event of Default and result in termination of this Agreement. Any reimbursement for necessary travel and per diem shall be set pursuant to and at rates not to exceed those set by the California Department of Human Resources at <http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx> as of the date costs are incurred by the Recipient.
46. **UNDISBURSED FUNDS.** The Recipient is not entitled to interest earned on undisbursed funds.
47. **UNENFORCEABLE PROVISION; SEVERABILITY.** 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.
48. **UNION ACTIVITIES:** The Recipient hereby acknowledges the applicability of Government Code sections 16645 through 16649 to this Agreement. The Recipient certifies that none of the Project Funds will be used to assist, promote, or deter union organizing. If the Recipient incurs costs or makes expenditures to assist, promote, or deter union organizing, the Recipient will maintain records sufficient to show that no reimbursement from Project Funds has been sought for these costs and the Recipient shall provide those records to the Attorney General upon request.
49. **VENUE.** Any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California.
50. **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.
51. **WATER CONSERVATION AND EFFICIENCY PROGRAMS:** The Recipient acknowledges that it has appropriate water conservation and efficiency programs in place, and that this provision constitutes a condition of this Agreement. 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.
52. **WATER DIVERSION AND USE:** To the extent applicable, the Recipient has complied with, and shall continue to comply with, the requirements of Water Code, division 2, part 5.1, section 5100 et seq. for filing statements of water diversion and use.

53. WITHHOLDING OF DISBURSEMENTS AND REIMBURSEMENTS. Notwithstanding any other provision of this Agreement, the State Water Board may withhold all or any portion of the Project Funds upon the occurrence of any of the following events:
- a) Failure of the Recipient to maintain reasonable progress on the Project as determined by the Division;
 - b) Commencement of litigation or a judicial or administrative proceeding related to the Project, or Recipient that the State Water Board determines may impair the timely satisfaction of Recipient's obligations under this Agreement;
 - c) Any investigation by State, local, or federal investigators or auditors, or a grand jury, relating to the Recipient's financial management, accounting procedures, or internal fiscal controls;
 - d) A material adverse change in the condition of the Recipient, or the Project, that the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement, or any other event that the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement;
 - e) The Recipient's material violation of, or threat to materially violate, any provision of this Agreement;
 - f) Suspicion of fraud, forgery, embezzlement, theft, or any other misuse of public funds by the Recipient or its employees, or by its contractors or agents directly or indirectly regarding the Project;
 - g) An event requiring notice under this Agreement; or
 - h) An Event of Default or an event that the Division determines may become an Event of Default.

EXHIBIT D – SPECIAL CONDITIONS

D.1 DEFINITIONS.

(a) Notwithstanding Exhibit C, the following terms have no meaning for the purposes of this Agreement:

- Work Completion
- Work Completion Date.

(b) Each capitalized term used in this Agreement has the following meaning:

- "Allowance" means an amount based on a percentage of the accepted bid for an eligible project to help defray the planning, design, and construction engineering and administration costs of the Project.
- "Authorized Representative" means the duly appointed representative of the Recipient as set forth in the certified original of the Recipient's authorized representative resolution that designates the authorized representative by title.
- "Completion of Construction" means that the work of building and erection of the Project is substantially complete to the reasonable satisfaction of the Division.
- "District Office" means District Office of the Division of Drinking Water of the State Water Board.
- "Division of Drinking Water" means the Division of Drinking Water of the State Water Board.
- "Eligible Work Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which any non-construction costs may be incurred and eligible for reimbursement hereunder.
- "Enterprise Fund" means the enterprise fund of the Recipient in which Revenues are deposited.
- "Estimated Completion of Construction Date" means the estimated due date for Completion of Construction, as determined by the Division after consultation with the Recipient, and is established on the Cover Page of this Agreement.
- "Event of Default" means, in addition to the meanings set forth in Exhibit C, the occurrence of any of the following events:
 - a) A material adverse change in the condition of the Recipient, the Revenues, or the System, which the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement.
 - b) Failure to operate the System or the Project, unless the Division has given its approval for such non-operation.
 - c) The occurrence of a material breach or event of default under any Recipient obligation that results in the acceleration of principal or interest or otherwise requires immediate prepayment, repurchase or redemption, or that the Division determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement.
 - d) If the Recipient is a member of a joint powers authority, the occurrence of a material breach or event of default under any agreement to which the joint powers authority is a party, relevant to the System or the Revenues, that the Division determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement.
 - e) Failure to obtain and keep the necessary water rights for the Useful Life of the Project.
- "Final Budget Approval (FBA)" means the Division-approved final budget for the Project, or phase of the Project, as set forth in Exhibit B.

- "Indirect Costs" means those costs that are incurred for a common or joint purpose benefiting more than one cost objective and are not readily assignable to the Project (i.e., costs that are not directly related to the Project). Examples of Indirect Costs include, but are not limited to: central service costs; general administration of the Recipient; non-project-specific accounting and personnel services performed within the Recipient organization; depreciation or use allowances on buildings and equipment; the costs of operating and maintaining non-project-specific facilities; tuition and conference fees; generic overhead or markup; and taxes.
- "Initiation of Construction" means the date that notice to proceed with work is issued for the Project, or, if notice to proceed is not required, the date of commencement of building and erection of the Project.
- "Net Revenues" means, for any Fiscal Year, all Revenues received by the Recipient less the Operations and Maintenance Costs for such Fiscal Year.
- "Operations and Maintenance Costs" means the reasonable and necessary costs paid or incurred by the Recipient for maintaining and operating the System, determined in accordance with GAAP, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the System in good repair and working order, and including all reasonable and necessary administrative costs of the Recipient that are charged directly or apportioned to the operation of the System, such as salaries and wages of employees, overhead, taxes (if any), the cost of permits, licenses, and charges to operate the System and insurance premiums; but excluding, in all cases depreciation, replacement, and obsolescence charges or reserves therefor and amortization of intangibles.
- "Project Completion Date" means the date that the Project shall be complete to the reasonable satisfaction of the Division, and is established on the Cover Page of this Agreement.
- "Revenues" means, for each Fiscal Year, all gross income and revenue received or receivable by the Recipient from the ownership or operation of the System, determined in accordance with GAAP, including all rates, fees, and charges (including connection fees and charges) as received by the Recipient for the services of the System, and all other income and revenue howsoever derived by the Recipient from the ownership or operation of the System or arising from the System, including all income from the deposit or investment of any money in the Enterprise Fund or any rate stabilization fund of the Recipient or held on the Recipient's behalf, and any refundable deposits made to establish credit, and advances or contributions in aid of construction.
- "System" means all drinking water collection, transport, treatment, storage, and delivery facilities, including land and easements thereof, owned by the Recipient, or its successor agency, and all other properties, structures, or works hereafter acquired and constructed by the Recipient and determined to be a part of the System, together with all additions, betterments, extensions, or improvements to such facilities, properties, structures, or works, or any part thereof hereafter acquired and constructed.
- "Useful Life" means the economically useful life of the Project beginning at Project Completion, which must be at least 20 years.

D.2 ADDITIONAL REPRESENTATIONS AND WARRANTIES.

The Recipient represents, warrants, and covenants each of the following:

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

- (b) The Recipient agrees to fulfill all assurances, declarations, representations, and commitments in its application, accompanying documents, and communications filed in support of its request for funding under this Agreement.
- (c) 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 of execution of this Agreement by the Recipient, 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 of execution of this Agreement by the Recipient.
- (d) There are, as of the date of execution of this Agreement by the Recipient, no pending or, to Recipient's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency that materially affect the financial condition or operations of the Recipient, the Revenues, and/or the Project.
- (e) There are no proceedings, actions, or offers by a public entity to acquire by purchase or the power of eminent domain any of the real or personal property related to or necessary for the Project.
- (f) The Recipient is duly organized and existing and in good standing under the laws of the State of California. Recipient must at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority. Within the preceding ten years, the Recipient has not failed to demonstrate compliance with state or federal audit disallowances.
- (g) Any financial statements or other financial documentation of Recipient delivered or to be delivered to the State Water Board as of the date(s) set forth in such financial statements or other financial documentation: (a) are or will be materially complete and correct; (b) present fairly the financial condition of the Recipient; and (c) have been or will be prepared in accordance with GAAP. Since the date(s) of any financial statements or other financial documentation previously provided to the State Water Board, there has been no material adverse change in the financial condition of the Recipient, nor have any assets or properties reflected on such financial statements or other financial documentation been sold, transferred, assigned, mortgaged, pledged or encumbered, except as previously disclosed in writing by Recipient and approved in writing by the State Water Board.
- (h) The Recipient is current in its continuing disclosure obligations associated with its material debt, if any.
- (i) The Recipient has no conflicting or Material Obligations.
- (j) The Recipient and its principals, contractors, and subcontractors, to the best of the Recipient's knowledge and belief, are not presently debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in any work overseen, directed, funded, or administered by the State Water Board program for which this funding is authorized; nor have they engaged or permitted the performance of services covered by this Agreement from parties that are debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which this funding is authorized. The Recipient shall select contractors and subcontractors for this Project that meet the requirements of this paragraph.

D.3 ACKNOWLEDGEMENTS.

The Recipient must include the following acknowledgement in any document, written report, or brochure to be shared with the general public prepared in whole or in part pursuant to this Agreement:

- “Funding for this project has been provided in full or in part under the Budget Act of 2021 through an agreement with the State Water Resources Control Board. The contents of this document do not necessarily reflect the views and policies of the foregoing, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.”

D.4 RATES, FEES, AND CHARGES.

The Recipient must, to the extent permitted by law, fix, prescribe and collect rates, fees and charges for the System during each Fiscal Year which are reasonable, fair, and nondiscriminatory and which will be sufficient to generate Revenues in the amounts necessary to cover Operations and Maintenance Costs, and must ensure that Net Revenues are in an amount necessary to meet its obligations under this Agreement. The Recipient may make adjustments from time to time in such fees and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates, fees and charges then in effect unless the Net Revenues from such reduced rates, fees, and charges will at all times be sufficient to meet the requirements of this section.

D.5 PROPERTY RIGHTS AND WATER RIGHTS.

- (a) Unless otherwise previously disclosed to the Division and described in the legal opinion accompanying this Agreement, the Recipient (1) has sufficient real or personal property and access rights necessary for the purposes of this Agreement, not subject to third party revocation, which rights extend at least to the Records Retention End Date of this Agreement, and (2) possesses all water rights necessary for this Project and the continued operation of the System.
- (b) If the Recipient does not have sufficient property, access, or water rights as described in paragraph a, above at the time of execution of this Agreement, then prior to the Division's bid solicitation approval, construction activities, and any reimbursement for construction, the Recipient shall provide evidence satisfactory to the Division that the Recipient has obtained the necessary property rights and water rights, including a legal opinion satisfactory to the State Water Board's counsel that the Recipient has sufficient property rights in the Project property for the purposes contemplated under this Agreement as well as sufficient water rights for the Project and the continued operation of the System.

D.6 CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE.

The Recipient shall comply with all applicable laws and regulations for the Project, including CEQA. No bid solicitation or construction may proceed unless and until the State Water Board completes its own CEQA findings and gives authorization to proceed with such activities. THE STATE WATER BOARD EXPRESSLY WITHHOLDS APPROVAL OF ANY CONSTRUCTION OR CONSTRUCTION-RELATED ELEMENT OF THE PROJECT AND THE RELEASE OF FUNDS ASSOCIATED WITH THAT CONSTRUCTION OR CONSTRUCTION-RELATED ELEMENT OF THE PROJECT UNTIL COMPLETION OF THE CEQA PROCESS, INCLUDING THE STATE WATER BOARD MAKING ITS OWN FINDINGS UNDER CEQA IF APPLICABLE. PROCEEDING WITH THE BID SOLICITATION PROCESS, EQUIPMENT PROCUREMENT, PURCHASE OF LAND OR OTHER PROPERTY RIGHTS, AND/OR CONSTRUCTION PRIOR TO RECEIVING AUTHORIZATION FROM THE DIVISION MAY RENDER THE PROJECT INELIGIBLE FOR FUNDING AND MAY BE GROUNDS FOR IMMEDIATE TERMINATION OF THE AGREEMENT. Any funds in the preliminary award notification or this Agreement linked to the construction element of the Project are for encumbrance purposes only and will be reviewed after the State Water Board makes any necessary CEQA findings. The appropriate environmental review under CEQA must be complete before the State Water Board determines whether to approve funding for construction of the Project or for any site acquisition (purchase of land, etc.) associated with the Project.

If the Recipient is the CEQA lead agency for the project, when the CEQA review process is complete, the Recipient shall file a CEQA Notice of Determination or Notice of Exemption for the Project at both the

applicable County Clerk's office and at the Governor's Office of Planning and Research, State Clearinghouse.

D.7 TECHNICAL SPECIAL CONDITIONS.

1. The Recipient shall submit the final plans and specifications to the Project Manager and the Division of Drinking Water Angeles District Office (DDW) for approval prior to soliciting bids, awarding any contracts, or commencing construction activities.
2. The Recipient shall submit all applicable permit amendment applications, including waiver application for any variance from the main separation requirements in the CA Waterworks Standards, to DDW for approval prior to soliciting bids, awarding any contracts, or commencing construction activities.
3. The Recipient must submit an executed consolidation and water service agreement with NMA, satisfactory to the Division, and receive written approval from the Project Manager to proceed prior to disbursement of any Project Funds under this Agreement. The consolidation and water service agreement(s) shall be in accordance with the requirements specified in the DWSRF Policy. No Project Funds may be disbursed for any Project Costs associated with the Project prior to written approval from the Division.
4. The executed consolidation and water service agreement with NMA must obligate any applicable NMA customers to submit a written procedure to conduct any necessary shutdown test subject to DDW approval. NMA shall conduct such shutdown test to verify that there are no cross-connections between the potable and non-potable water supply systems to the satisfaction and approval of DDW District Engineer. The consolidation agreement must obligate NMA to complete any necessary infrastructure improvements and the shutdown test by a date no later than Completion of Construction Date.
5. The Recipient must comply with all requirements specified in the Division's written bid solicitation approval(s) or Final Budget Approval(s) for the Project, if any. Any such requirements are incorporated into this Agreement by reference.
6. The Recipient must not solicit bids, award a contract, or commence construction activities unless the Recipient has provided evidence satisfactory to the Division that the Recipient has obtained the necessary property or access rights for the Project, including but not limited to all necessary pipeline easements, and right of entry permits, sufficient for the purposes contemplated in this Agreement; has provided a legal opinion satisfactory to the Division's counsel; and has received approval from the Division.

D.8 ENVIRONMENTAL SPECIAL CONDITIONS.

- (a) The Recipient shall not purchase land or equipment specific to the Project, solicit bids for construction of the Project, award a construction contract for the Project, or commence construction unless and until environmental review of the construction project is complete, including all of the following.
 - i. The CEQA lead agency must have either (1) completed the appropriate CEQA document (negative declaration, mitigated negative declaration, or environmental impact report, etc.) for the Project and filed a Notice of Determination (NOD) with the appropriate County Clerk and with the Governor's Office of Planning and Research, State Clearinghouse, or (2) determined that the Project is exempt from CEQA, and filed a Notice of Exemption (NOE) with the appropriate County Clerk and with the Governor's Office of Planning and Research, State Clearinghouse.
 - ii. The Recipient must have provided all information requested by the Division to complete the Division's environmental review of the Project.
 - iii. The State Water Board must have completed its CEQA review and filed either an NOD or an NOE with the Governor's Office of Planning and Research, State Clearinghouse, for the construction of the Project.

- (b) The Mitigation Monitoring and Reporting Program adopted by the CEQA lead agency for the Project, if any, pursuant to the CEQA, and approved by the Division, is incorporated by reference, and the Recipient shall comply with the conditions and recommendations therein and shall implement all mitigation measures therein.
- (c) The Recipient shall make no changes in the Project, construction area, or special conditions, without obtaining the appropriate and necessary prior approval(s) from the State Water Board.

D.9 FINANCIAL SPECIAL CONDITIONS.

- (a) The Recipient shall provide all information requested by the Division to complete the financial review of the Project prior to the Division providing bid solicitation approval.
- (b) The Recipient shall not award a construction contract for the Project or commence construction unless and until the Division provides a Final Budget Approval, and the following condition is met.
 - i. If the Division determines that Recipient's water rates are insufficient to cover the operation and maintenance of the Recipient's water system, including the Project, the Recipient must do the following:
 - Complete a water rate study that is approved by the Division.
 - Adopt water rates satisfactory to the Division prior to Final Budget Approval and disbursement of construction funds. Satisfactory rates must be in effect prior to Completion of Construction. If the Project is bid in phases with Division approval, the Recipient must adopt water rates satisfactory to the Division prior to the first Final Budget Approval, and prior to disbursement of any construction funds.
 - Provide a supplementary opinion of counsel satisfactory to the Division's counsel affirming that the water rates were properly adopted.
- (c) If requested by the Division, the Recipient shall submit documentation that the Recipient has established a separate enterprise fund for water service, which shall be used solely for System Revenues and System expenses. The Division may withhold disbursements at its discretion until documentation satisfactory to the Division is submitted.
- (d) If requested by the Division, the Recipient shall submit audited financial reports on an annual basis, by December 31 of each year, until completion of the Project. The Division may withhold disbursements at its discretion until reports satisfactory to the Division are submitted.
- (e) The executed consolidation and water service agreement with NMA must obligate NMA to apply all of NMA's funds—less the NMA funds applied towards the costs of properly operating the NMA system starting January 1, 2024 through consolidation with Recipient, and less the NMA funds applied to costs necessary for the consolidation (such as onsite connection work, backflow device testing, NMA main service equipment demolition, and dissolution of NMA) other than Project Costs—which shall be referred to as the "NMA Contribution," towards Project Costs. The NMA Contribution must exceed \$100,000, unless otherwise approved in advance and in writing by the Division. Before Project Completion and before submitting its final Reimbursement Request, the Recipient must ensure that the NMA Contribution has been applied towards Project Costs and submit sufficient supporting documentation of the application of the NMA Contribution to the Division. Any NMA Contribution changes or adjustments requested by the Recipient must be approved, in advance and in writing, by the Division.
- (f) Any costs funded with the NMA Contribution are not reimbursable under this Agreement. The amount of this Agreement may be reduced, and disbursements withheld, to offset the amount of any NMA Contribution to avoid double recovery. The Recipient shall ensure that no duplicative reimbursement of costs occur under this Agreement. Upon demand by the Division, the Recipient shall return Project Funds to the extent necessary to avoid double recovery. Noncompliance with this section shall be an Event of Default.

D.10 SPECIAL COMPLIANCE CONDITIONS.

- (a) The Recipient shall not solicit construction bids or conduct any construction activities until the Recipient has requested approval from the Division using the procedures specified by the Division, and the Division has provided approval in writing.
- (b) The Recipient shall submit the following documents and information to the Project Manager:
- i. A copy of the Recipient's adopted Conflict of Interest Code, including the designated positions required to file a Statement of Economic Interests (Form 700), as well as other documentation, satisfactory to the Division demonstrating the Recipient's compliance with section 11 of Exhibit C of this Agreement. No Project Funds shall be disbursed under this Agreement until the Recipient satisfies this requirement.
 - ii. Copies of all consultant services contracts related to this Project and documentation demonstrating the Recipient's procurement processes for such contracts. Procurement processes for consultant services contracts (e.g., professional engineering, environmental, land surveying, project management) shall be based upon demonstrated competence and qualifications and shall ensure that rates are reasonable and consistent with state laws regarding contracting for professional services. No Project Funds shall be disbursed under this Agreement for such contracts until the Recipient complies with this requirement to the satisfaction of the Division with respect to the requested costs.
 - iii. Documentation demonstrating compliance with sections 7, 8, 13, 26, 31, 34, 35, 39 of Exhibit C and section D.2(k) of this Agreement. No Project Funds shall be disbursed under this Agreement until the Recipient complies with this requirement to satisfaction of the Division with respect to the requested costs.
 - iv. Documentation of the policies and/or procedures Recipient uses when reviewing and approving consultant, contractor, and subcontractor invoices. Such policies and/or procedures must ensure that (1) consultant, contractor, and/or subcontractor invoices provide sufficient documentation of the work performed; and (2) the consultant, contractor, and/or subcontractor costs incurred are eligible and are consistent with the respective project scope of work, budget, and actual work completed. No Project Funds shall be disbursed under this Agreement until the Recipient complies with this requirement to the satisfaction of the Division with respect to the requested costs.

The Division's review of the documents and information referenced above, or any other documents submitted in relation to this Project, does not relieve the Recipient from responsibility for ensuring that its procedures comply with all applicable laws, rules, guidelines, regulations, and requirements.

D.11 FUNDS RELATED TO CONTAMINATION.

- (a) As a condition precedent to this Agreement, the Recipient shall (i) notify the Division of any demands, including but not limited to litigation and insurance claims, made by the Recipient against third parties for reimbursement of costs, monetary damages, or other relief, related to drinking water contamination, including but not limited to contamination by 1,2,3-trichloropropane (1,2,3-TCP), perfluoroalkyl and polyfluoroalkyl substances (PFAS), or other contaminants (Contamination-Related Demands); (ii) notify the Division of any payments or funds received by the Recipient, agreements, settlements, and court or administrative orders that have arisen out of or are related to drinking water contamination or Contamination-Related Demands (Contamination-Related Payments, Agreements, or Orders); and (iii) to the extent requested by the Division or the Division's counsel, provide information and access to documentation of any Contamination-Related Demands and Contamination-Related Payments, Agreements, or Orders.

- (b) After execution of this Agreement, the Recipient shall promptly notify the Division of the new occurrence of any Contamination-Related Demands and Contamination-Related Payments, Agreements, or Orders. Upon request, the Recipient shall promptly provide information and access to documents to the extent requested by the Division or the Division's counsel.
- (c) If the Recipient is not regulated by the California Public Utilities Commission (CPUC), the provisions of this paragraph (c) shall apply. Unless the Division provides approval to exclude certain funds, the Recipient shall place all funds received as a result of Contamination-Related Demands or Contamination-Related Payments, Agreements, or Orders (Recovered Funds) into a restricted reserve account to be used for Operation and Maintenance costs related to addressing the associated drinking water contamination or for a capital improvement project other than the Project that addresses the associated drinking water contamination. Alternatively, upon written consent of the Division, the Recovered Funds may be placed into a restricted reserve account to be used as co-funding or match funding for the Project, to support the financial capacity of the System, for Operation and Maintenance Costs of the System, or for other purposes approved by the Division. To the extent requested by the Division, the Recipient shall provide access to (i) documentation satisfactory to the Division showing the total amount of Recovered Funds deposited into a restricted reserve account prior to the start of construction of the Project and (ii) documentation thereafter of any Recovered Funds that Recipient receives and places into such an account. The Recipient may seek reimbursement under this Agreement for costs previously paid by Recovered Funds but shall place any reimbursement from the Division for such costs into a restricted reserve account in accordance with the requirements stated above.
- (d) If the Recipient is regulated by the CPUC, paragraph (c) shall not apply, and the Recipient shall comply with all applicable CPUC rules with respect to the Recovered Funds and shall provide to the Division copies of all notices, applications, and any other documents filed with the CPUC, and any documents issued by the CPUC, within 10 days of submittal or issuance as applicable, with respect to the receipt and use of Recovered Funds and with respect to any proposed transfer of any assets funded by Recovered Funds.
- (e) The amount of this Agreement may be reduced, and disbursements withheld, to offset the amount of any Recovered Funds or any Contamination-Related Payments, Agreements, or Orders to avoid double recovery. The Recipient shall ensure that no duplicative reimbursements of costs occur under this Agreement and any past or future Recovered Funds or Contamination-Related Payments, Agreements, or Orders. Upon demand by the Division, the Recipient shall return Project Funds to the extent necessary to avoid double recovery. Noncompliance with this Funds Related to Contamination section shall be an Event of Default.

D.12 APPOINTMENT OF RECEIVER OR CUSTODIAN.

Upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the State Water Board under this Agreement, the State Water Board may make application for the appointment of a receiver or custodian of the Revenues, pending such proceeding, with such power as the court making such appointment may confer.

D.13 RETURN OF FUNDS.

Notwithstanding any other provision of this Agreement, if the Division determines that an Event of Default has occurred, the Recipient may be required, upon demand, to immediately return to the State Water Board any grant or principal forgiveness amounts received pursuant to this Agreement and pay interest at the highest legal rate on all of the foregoing.

D.14 OPERATION AND MAINTENANCE.

The Recipient shall sufficiently and properly staff, operate, and maintain the facility and structures constructed or improved as part of the Project throughout the term of this Agreement, consistent with the purposes of this Agreement. The Recipient assumes all operations and maintenance costs of the facilities and structures; the State Water Board shall not be liable for any cost of such maintenance, management or operation.

D.15 INSURANCE.

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

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

Recipient agrees that for any policy of insurance concerning or covering the construction of the 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 must provide the Division with a copy of all such certificates prior to the commencement of construction of the Project.

D.16 CONTINUOUS USE OF PROJECT; NO LEASE, SALE, TRANSFER OF OWNERSHIP, OR DISPOSAL OF PROJECT.

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

D.17 NOTICE.

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

- (a) Within 24 hours, the Recipient must notify the Project Manager by phone and by email and the Division by phone at (916) 327-9978 and by email, DrinkingWaterSRF@waterboards.ca.gov, of any discovery of any potential tribal cultural resource, archaeological or historical resource, or human remains in the Project area. If there are any applicable provisions of a mitigation, monitoring and reporting program adopted for the project, the Recipient shall comply with such provisions. The Recipient must coordinate with the Division to determine the appropriate course of action necessary to mitigate potential impacts. In the event of

the discovery of human remains during construction of the Project, the Recipient shall cease construction and take other action required by any applicable laws, which may include but are not limited to Health and Safety Code, section 7050.5 and Public Resources Code, section 5097.98.

- (b) The Recipient must notify the Division and Party Contacts promptly of the occurrence of any of the following events:
- i. Bankruptcy, insolvency, receivership or similar event of the Recipient, or actions taken in anticipation of any of the foregoing;
 - ii. Change of ownership of the Project (no change of ownership may occur without written consent of the Division);
 - iii. Loss, theft, damage, or impairment to Project;
 - iv. Events of Default, except as otherwise set forth in this section;
 - v. A proceeding or action by a public entity to acquire the Project by power of eminent domain.
 - vi. Any litigation pending or threatened with respect to the Project or the Recipient's technical, managerial or financial capacity or the Recipient's continued existence, or any judgment or court order relating to such litigation that has a significant effect on the Project or the System;
 - vii. Consideration of dissolution, or disincorporation;
 - viii. Enforcement actions by or brought on behalf of the State Water Board or Regional Water Board.
 - ix. The discovery of a false statement of fact or representation made in this Agreement or in the application to the Division for this funding, or in any certification, report, or request for reimbursement made pursuant to this Agreement, by the Recipient, its employees, agents, or contractors;
 - x. Any substantial change in scope of the Project. The Recipient must undertake no substantial change in the scope of the Project until prompt written notice of the proposed change has been provided to the Division and the Division has given written approval for the change;
 - xi. Any circumstance, combination of circumstances, or condition, which is expected to or does delay Completion of Construction for a period of ninety (90) days or more;
 - xii. Cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more;
 - xiii. The Recipient must promptly notify the Division and Party Contacts of the discovery of any unexpected endangered or threatened species, as defined in the federal Endangered Species Act. Should a federally protected species be unexpectedly encountered during implementation of the Project, the Recipient agrees to promptly notify the Division. This notification is in addition to the Recipient's obligations under the federal Endangered Species Act.
 - xiv. Any Project monitoring, demonstration, or other implementation activities required in this Agreement;

- xv. 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;
- xvi. Any event requiring notice to the Division pursuant to any other provision of this Agreement;
- xvii. The award of the prime construction contract for the Project; and the initiation of construction of the Project; and
- xviii. Completion of Construction, and Project Completion.

D.18 FRAUD, WASTE, AND ABUSE.

The Recipient shall prevent fraud, waste, and the abuse of Project Funds, and shall cooperate in any investigation of such activities that are suspected in connection with this Agreement. The Recipient understands that discovery of any evidence of misrepresentation or fraud related to Reimbursement Requests, invoices, proof of payment of invoices, or other supporting information, including but not limited to double or multiple billing for time, services, or any other eligible cost, may result in an administrative action by the State Water Board and/or referral to the Attorney General's Office or the applicable District Attorney's Office for appropriate action. The Recipient further understands that any suspected occurrences of false claims, misrepresentation, fraud, forgery, theft or any other misuse of Project Funds may result in withholding of reimbursements and/or the termination of this Agreement requiring the immediate repayment of all funds disbursed hereunder. A person who knowingly makes or causes to be made any false statement, material misrepresentation, or false certification in any submittal may be subject to a civil penalty, criminal fine, or imprisonment. (Wat. Code, § 13490 et seq.)

D.19 DISPUTES.

The Recipient must continue with the responsibilities under this Agreement during any dispute. The Recipient may, in writing, 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. This provision does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the State Water Board, or any official or representative thereof, on any question of law. This section relating to disputes does not establish an exclusive procedure for resolving claims within the meaning of Government Code sections 930 and 930.4.

D.20 EXECUTIVE ORDER N-6-22 — RUSSIAN SANCTIONS.

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State Water Board determine Recipient is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this Agreement. The State Water Board shall provide Recipient advance written notice of such termination, allowing Recipient at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State Water Board.

The Recipient represents that the Recipient is not a target of economic sanctions imposed in response to Russia's actions in Ukraine imposed by the United States government or the State of California. The Recipient is required to comply with the economic sanctions imposed in response to Russia's actions in Ukraine, including with respect to, but not limited to, the federal executive orders identified in California Executive Order N-6-22, located at <https://www.gov.ca.gov/wp-content/uploads/2022/03/3.4.22-Russia-Ukraine-Executive-Order.pdf> and the sanctions identified on the United States Department of the Treasury website (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>). The Recipient is required to comply with all applicable reporting requirements regarding compliance with the economic sanctions, including, but not limited to, those reporting requirements set forth in California Executive Order N-6-22 for all Recipients with one or more agreements with the State of California with an aggregated value of Five Million Dollars (\$5,000,000) or more. Notwithstanding any other provision in this Agreement, failure to comply with the economic sanctions and all applicable reporting requirements may result in termination of this Agreement.

For Recipients with an aggregated agreement value of Five Million Dollars (\$5,000,000) or more with the State of California, reporting requirements include, but are not limited to, information related to steps taken in response to Russia's actions in Ukraine, including but not limited to:

1. Desisting from making any new investments or engaging in financial transactions with Russian institutions or companies that are headquartered or have their principal place of business in Russia;
2. Not transferring technology to Russia or companies that are headquartered or have their principal place of business in Russia; and
3. Direct support to the government and people of Ukraine.

D.21 STATE CROSS-CUTTERS.

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

- The California Environmental Quality Act (CEQA), as set forth in Public Resources Code 21000 et seq. and in the CEQA Guidelines at Title 14, Division 6, Chapter 3, Section 15000 et seq.
- Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.
- Monthly Water Diversion Reporting requirements, including requirements set forth in Water Code section 5103.
- Public Works Contractor Registration with Department of Industrial Relations requirements, including requirements set forth in Sections 1725.5 and 1771.1 of the Labor Code.
- Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.
- Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Water Code, § 10610 et seq.).
- Urban Water Demand Management requirements, including the requirements of Section 10608.56 of the Water Code.

- Delta Plan Consistency Findings requirements, including the requirements of Water Code section 85225 and California Code of Regulations, title 23, section 5002.
- Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.
- Charter City Project Labor Requirements, including the requirements of Labor Code section 1782 and Public Contract Code section 2503.
- The Recipient agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with directives or orders issued pursuant to Division 7 of the Water Code.
- Regulations in Division 4 of Title 22 of the California Code of Regulations, including but not limited to California Waterworks Standards in Chapter 16, and Lead and Copper regulations in Chapter 17.5.

[DATE]

[FORM OF OPINION OF GENERAL COUNSEL – insert your letterhead]

State Water Resources Control Board
Division of Financial Assistance
Attn: Maria Nanca
1001 I Street
Sacramento, CA 95814

Re: Recipient Entity (“Recipient”) – Name of Project –Project No. [xxxxxxxxxxxxx]
 (“Project”) – Agreement No. [xxxxxxxxxxxxxxxxxxxxx] (“Agreement”)

Ladies and Gentlemen:

I am/This firm acts as General Counsel to the Recipient in connection with the Project. This opinion is delivered to the State Water Resources Control Board (“State Water Board”) at the request of the Recipient. In connection therewith, I have examined the laws pertaining to the Recipient, originals of the Agreement between the Recipient and the State Water Board, the Recipient’s authorized representative resolution [number] adopted on [DATE], the Recipient’s rate-setting resolution [number] adopted on [DATE], (collectively, “the Resolutions”), and such other documents, legal opinions, instruments and records, and have made such investigation of law, as I have considered necessary or appropriate for the purpose of this opinion.

Based on the foregoing, it is my opinion that:

- a. The Recipient, a general law city/charter city/county/special district/joint powers authority of the State of California duly organized, validly existing under the laws of the State of California pursuant to [INSERT SPECIFIC LEGAL AUTHORITY], has the requisite legal right, power, and authority to execute and deliver the Agreement and carry out and consummate all transactions contemplated therein.

AND IF CHARTER CITY

[The Recipient is a charter city, the governing board of which is not prohibited, limited or constrained in any way from adopting, requiring, or utilizing a project labor agreement that includes all taxpayer protection provisions of Public Contract Code section 2500.]

AND IF JOINT POWERS AUTHORITY

None of the Recipient's member charter cities is prohibited, limited or constrained in any way from adopting, requiring, or utilizing a project labor agreement that includes all taxpayer protection provisions of Public Contract Code section 2500.

- b. The Resolutions have been duly adopted at meetings of the Recipient which were called and held pursuant to law with all public notice required by law and at which a quorum was present and acting when the Resolutions were adopted. The Resolutions are in full force and effect and have not been amended, modified, supplemented, or rescinded, nor has the rate-setting resolution been challenged or the rates become subject of a referendum or initiative or other similar process.
- c. To the best of my knowledge and based upon a reasonable investigation, all proceedings required by law or under the ordinances or bylaws of the Recipient to be taken by the Recipient in connection with the authorization of the Agreement and the transactions contemplated by and related thereto, and all such approvals, authorizations, consents or other orders of or filings or registrations with such public boards or bodies, if any, as may be legally required to be obtained by the Recipient prior to the date hereof with respect to all or any of such matters have been taken or obtained and are in full force and effect, except that no opinion is expressed as to any approvals, obligations or proceedings which may be required under any federal securities laws or state blue sky or securities laws.
- d. To the best of my knowledge and based upon a reasonable investigation, the execution and delivery of the Agreement and the consummation of the transactions therein will not conflict with or constitute a breach of or default (with due notice or the passage of time or both) under (i) the statutes creating the Recipient or any amendments thereto, (ii) the ordinances or by laws of the Recipient, (iii) any bond, debenture, note or other evidence of indebtedness, or any material contract, agreement or lease to which the Recipient is a party or by which it or its properties are otherwise subject or bound or (iv) any applicable law or administrative regulation or any applicable court or administrative decree or order. All material contracts, agreements, or leases are listed in Exhibit D of the Agreement.
- e. ~~delete for CW planning, or for DW planning where no test wells:~~ To the best of my knowledge and based upon a reasonable investigation, the Recipient has sufficient property rights in the Project property for the purposes contemplated in the Agreement and has complied with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) with respect to any property acquired for the purposes of the Project. These property rights extend ~~in perpetuity/until [date].~~

- f. To the best of my knowledge and based upon a reasonable investigation, there is no action, suit, proceeding, inquiry or investigation before any court, or by any federal, state, municipal or other governmental authority pending or threatened against or affecting the Project or the Recipient's [water/wastewater/recycled water, etc.] system (the System), or the assets, properties, or operations of the Recipient relating to the System, which, if determined adversely to the Recipient or its interests would result in any material change in the assets or financial condition of the Recipient, the Project, or the System; and the Recipient is not in default with respect to any order or decree of any court or any order, regulation, or demand of any federal, state, municipal, or other governmental agency which default might have consequences that would materially and adversely affect the financial condition of the Recipient, the Project, or the System.
- g. No facts have come to my attention which lead me to believe that the Recipient's authorized representative has made any untrue statement of a material fact or omitted or omits to state a material fact or has made misleading statements in the Agreement.
- h. The Agreement has been duly authorized, executed, and delivered, and assuming due authorization, execution and delivery of the Agreement by the State Water Board, constitutes legal, valid, and binding obligation of the Recipient enforceable against the Recipient in accordance with its terms, subject to the laws relating to bankruptcy, insolvency, reorganization, or creditors' rights generally and to the application of equitable principles, if equitable remedies are sought.

Sincerely,

General Counsel
[Recipient Name]