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NONPOINT SOURCE POLLUTION CONTROL PROGRAM  
GRANT

AGREEMENT NO. D2513217

by and between

COUNTY OF SAN MATEO ("Recipient")

AND

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD ("State Water Board")

for the purpose of the

PESCADERO CREEK WATERSHED ROADS SEDIMENT REDUCTION PROJECT  
("Project")

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- Section 13160 of the California Water Code, and Resolution Nos. 2023-0024, 2024-0017.

PROJECT FUNDING AMOUNT: \$1,000,000  
MATCH CONTRIBUTION: \$921,247  
OTHER FUNDS: \$3,032,215  
ESTIMATED REASONABLE PROJECT COST: \$4,953,462

ELIGIBLE WORK START DATE: MAY 1, 2025  
WORK COMPLETION DATE: JUNE 30, 2028  
FINAL REIMBURSEMENT REQUEST DATE: JULY 31, 2028  
RECORDS RETENTION END DATE: JUNE 30, 2031

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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 TERMS
- EXHIBIT C – GENERAL TERMS AND CONDITIONS 2019-NOV
- EXHIBIT D – SPECIAL CONDITIONS

2. The following documents are also incorporated by reference:

- Those documents incorporated by reference in Exhibit D;
- the Final Plans & Specifications, which are the basis for the construction contract to be awarded by the Recipient;

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

State Water Board		County of San Mateo	
Section:	Regional Water Quality Control Board	Sustainability Department	
Name:	Lisa Hunt, Project Manager	Name:	Melissa Ross-Perkins, Project Director
Address:	1515 Clay St., Suite 1400	Address:	455 County Center, 4th Floor
City, State, Zip:	Oakland, CA, 94612	City, State, Zip:	Redwood City, CA, 94063
Phone:	(510) 622-2373	Phone:	(650) 363-4114
Email:	Lisa.Hunt@waterboards.ca.gov	Email:	mross-perkins@smcgov.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.

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:

- (b) The Recipient agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents.
  - (c) 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.
  - (d) None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of the 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.
  - (e) 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.

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

SAN MATEO COUNTY

STATE WATER RESOURCES CONTROL BOARD

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Jasneet W. Sharma  
Title: Director  
Sustainability Department

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 Recipient and has a Useful Life of twenty (20) years. The funding under this Agreement shall be used for the purpose of repairing and upgrading four (4) stream crossings on tributaries to Pescadero Creek, including Bloomquist Creek, Peterson Creek, Schenley Creek, and Rhododendron Creek, to reduce chronic and episodic sediment delivery in accordance with the Pescadero-Butano Watershed Sediment Total Maximum Daily Loads (TMDL).

### A.2 SCOPE OF WORK.

#### 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 site visits, inspections, meetings, workshops, tours, trainings, and construction activities.
- 1.3 Develop and update appropriately a detailed Project schedule, including key Project milestones, and submit them to the Project Manager.
- 1.4 Conduct periodic site visits with the Project Manager, including a minimum of one (1) pre-implementation and one (1) post-implementation site visit.

#### 2. Environmental Clearance

- 2.1 Complete documentation required under the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) for the proposed Project. Take all required steps to prepare, circulate, and certify the required CEQA/NEPA documents(s).
  - 2.1.1 Submit the draft CEQA/NEPA documents to the Project Manager for comment, if applicable.
  - 2.1.2 Submit the final CEQA/NEPA documents to the Project Manager.
  - 2.1.3 Obtain written environmental clearance from the State Water Board confirming the State Water Board has made its own

environmental findings and concurred that implementation / construction may proceed.

- 2.2 Obtain all public agency approvals, entitlements, or permits required for the Project and submit signed copies to the Project Manager. Other necessary public agency approvals and/or permits may include, but are not limited to, the following:
    - Regional Water Quality Control Board (RWQCB) 401 Certification.
    - California Department of Fish and Wildlife (CDFW) 1602 Agreement.
    - United States Army Corps of Engineering (USACE) 404 Permit and associated biological opinions.
    - Written approval of proposed work that confirms coverage under existing routine maintenance program permits.
  - 2.2.1 Submit any amendments to the approvals and permits from Item 2.2 to the Project Manager, as necessary.
3. Planning, Design, and Engineering
    - 3.1 Develop and execute site access and maintenance agreements with landowners of properties where implementation work will occur that include conditions of site access and define landowner responsibilities for cost sharing and operation and maintenance.
      - 3.1.1 Submit the draft site access and maintenance agreements to the Project Manager for review.
      - 3.1.2 Submit copies of the final signed site access and maintenance agreements to the Project Manager.
    - 3.2 Prepare and submit to the Project Manager the one hundred percent (100%) designs plans and specifications that include:
      - Removal of the existing deteriorated culvert and all unstable fill at the Wurr Road Bloomquist Creek crossing to be replaced with a new corrugated metal pipe (CMP) culvert, sized to convey one hundred (100) year flows.
      - Removal of the existing deteriorated culvert and all unstable fill at the Wurr Road Peterson Creek crossing and replacement with a new CMP culvert, sized to convey one hundred (100) year flows.
      - Removal and replacement of the existing undersized culvert at the Old Haul Road Rhododendron Creek crossing with a larger CMP culvert, sized to convey one hundred (100) year flows. Improve road stability and channel capacity with road fill upgrades and in channel grading.

- Removal and replacement of the existing deteriorated and undersized culvert at the Old Haul Road Schenley Creek crossing with a larger CMP culvert, sized to convey one hundred (100) year flows. Removal of all unstable fill that is actively eroding and reconstruction of a stable road crossing over the new culvert.
- Installation of post-construction erosion control measures at each Project site, which may include: rock energy dissipaters; rock slope protection; headwalls; debris racks; critical dips on road approaches; erosion control fabric; native seeding; and native plantings.

3.3 Prepare and submit the advertised bid documents and bid summary to the Project Manager that demonstrates it was completed in accordance with:

- The approved one hundred percent (100%) design plans and specifications in Item 3.2 and after receiving all required approvals.
- The competitive procurement process requirements and an appropriately qualified and licensed contractor(s) was selected.

3.3.1 Submit the Notice(s) to Proceed and awarded contract(s) to the Project Manager.

#### 4. Implementation

- 4.1 Implement the Project in accordance with the approved one hundred percent (100%) design plans and specifications in Item 3.2 after obtaining environmental clearance in Item 2.1.3 and the necessary approvals, entitlements, or permits in Item A.3(f).
- 4.2 Submit any proposed changes that arise during construction that may affect the Project's scope, schedule, or costs to the Project Manager for approval.
- 4.3 Prepare and submit as-built drawings and a summary of changes from the approved design plans and specifications that occurred during implementation to the Project Manager.

#### 5. Monitoring and Reporting

- 5.1 Prepare a Geographic Information System (GIS) map of culvert replacement and crossing improvement locations, photo-monitoring locations, and submit the map and GIS shapefiles to the Project Manager and upload the Project information to EcoAtlas

- 5.2 Conduct pre-, during, and post-construction photo documentation and submit to the Project Manager. Photo documentation must be completed per photo monitoring guidance from the United States Environmental Protection Agency (USEPA), United States Department of Agriculture (USDA), or other methodology approved by the Project Manager. Photo guidance may be found at:  
[https://www.epa.gov/sites/production/files/2016-06/documents/chapter\\_5\\_may\\_2016\\_508.pdf](https://www.epa.gov/sites/production/files/2016-06/documents/chapter_5_may_2016_508.pdf),  
and  
[http://www.waterboards.ca.gov/water\\_issues/programs/swamp/docs/cwt/guidance/4214a.pdf](http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/cwt/guidance/4214a.pdf).
- 5.3 Prepare and submit to the Project Manager a Monitoring Plan (MP) in accordance with Item A.3(c) using a template or outline provided by the Project Manager that also includes the following qualitative assessments, data collection and measurements conducted annually for up to three (3) years within the Project area:
- Pre- and Post-construction photo documentation of each crossing site road, embankment, culvert inlet and outlet, and up- and downstream habitat;
  - Annual photo monitoring at established photo documentation location at each stream crossing site;
  - Visual monitoring of each stream crossing site by a certified engineering geologist, conducted after the first large storm event following construction and then annual pre- and post-storm monitoring each winter.
- 5.4 Monitor and document implementation of monitoring in accordance with the approved MP in Item 5.3 and A.3(c) and any conditions of the 401 Water Quality Certification, and include a summary of all monitoring data analyses in the Final Project Report.

Upon Work Completion, the Recipient must expeditiously initiate Project operations.

### A.3 STANDARD PROJECT REQUIREMENTS.

#### (a) Stream Reach and Hydraulic Unit Code Subwatershed Identification.

Prior to the disbursement of any Project Funds under this Agreement, the Recipient must identify the stream reach and all twelve (12) digit Hydrologic Unit Code subwatersheds (HUC-12s) that are affected by the Project in order for the State Water Board and Regional Water Board staff to verify work was adequately performed or conducted.

(b) Project Assessment and Evaluation Plan.

Prepare and submit a Project Assessment and Evaluation Plan (PAEP), which describes the manner in which the Project performance will be assessed, evaluated, and reported to the Project Manager for approval. The PAEP shall detail the methods of measuring Project benefits. Implementation of any monitoring and performance assessment and/or evaluation actions shall not occur prior to PAEP approval by the Project Manager

(c) Monitoring Plan.

The Recipient shall prepare, maintain, and implement a Monitoring Plan (MP). The MP shall include, but is not limited to, a description of the monitoring objectives, types of constituents to be monitored, and the sampling location frequency/schedule for the monitoring activities. The MP will include the schedule for submittal of monitoring reports. The Recipient shall be prohibited from implementing any sampling or monitoring activities prior to approval of the MP by the Project Manager. Changes to the MP must be submitted to the Project Manager for approval prior to implementation.

(d) [Reserved]

(e) [Reserved]

(f) Approvals and Rights of Way.

If public agency approvals, entitlements or permits are required, the Recipient must obtain such approvals, entitlements or permits and must submit signed copies to the Project Manager before work begins. Consistent with Section A.2, Item 3.1 of this Agreement, if the Project is carried out on lands not owned by the Recipient, the Recipient must obtain adequate rights of way for the Useful Life of the Project and submit the rights-of-way documentation to the Project Manager.

(g) Pollutant Load Reduction.

All implementation projects that propose pollution load and/or concentration reductions must report such reductions annually using the Clean Water Act (CWA) 319(h) Nonpoint Source Annual Load Reduction form provided by the Project Manager. The Recipient shall submit to the Project Manager an Annual Load Reduction form annually whether or not implementation has been completed during that year.

(h) DBE Compliance and Utilization Report.

The Recipient shall comply with the applicable Disadvantaged Business Enterprises (DBE) requirements in 40 CFR part 33 for the Project and require its contractors and subcontractors on the Project to comply. 40 CFR § 33.301 requires the use of good faith

efforts to utilize DBE's whenever procuring construction, equipment, services, and supplies. If required by the Division, the Recipient must report DBE utilization to the Division on the USEPA Form 5700-52A or the DBE Utilization Report, State Water Board Form DBE UR334 and must submit such reports to the Division annually by September 1 until such time as the "Notice of Completion" is issued.

#### A.4 PROGRESS REPORTS.

The Recipient must submit quarterly progress reports, using a format provided by the Project Manager, within forty-five (45) days following the end of the calendar quarter (March, June, September, and December) to the Project Manager. Progress reports must provide a brief description of activities that have occurred, milestones achieved, monitoring results (if applicable), a CEQA status summary table, and any problems encountered in the performance of the work under this Agreement during the applicable reporting period. Reporting is required even if no Project-related activities occurred during the reporting period. The Recipient must document all activities and expenditures in progress reports, including work performed by contractors.

#### A.5 FINAL REPORTS.

##### (a) Draft Final Project Report.

The Recipient must prepare and submit to the Project Manager a Draft Final Project Report for comment that includes and addresses the following narrative sections and items:

- (1) A report of all monitoring and management practices or management measures implemented, including identification of the stream reach affected by these activities. The report must include all Project required water quality monitoring data as uploaded into California Environmental Data Exchange Network (CEDEN) and provided in both Microsoft Excel and pdf formats. The report must be in a format that precisely identifies monitoring and management measures and locations so that the Project Manager can easily identify the affected stream reach.
- (2) A description of Project performance, including benefits, successes, and shortcomings, consistent with the PAEP that enumerates specific quantifiable environmental changes and results of the Project. As appropriate, include 1) behavioral results such as the amount of management practices or measures implemented, 2) estimates or measurements of the amount of pollutants prevented from reaching surface or ground water, 3) documented changes in water quality based on monitoring, and 4) improved or protected beneficial uses.

- (3) A description of lessons learned in carrying out the Project including what worked and what did not work, and how similar efforts could be utilized within the Project area, as well as in other watersheds.
  - (4) A separate analysis of the originally proposed load reductions and the actual or estimated amount of pollutants prevented from reaching surface and/or ground water considering changes or amendments to the Project. If the originally proposed Load Reductions were not achieved, the Recipient must also identify and discuss all load reduction limiting factors and any possible future solutions. This information must be included in both the Final Project Report and the Final Project Summary.
  - (5) A description of the extent of outreach that has been conducted and if there are plans to further promote the results of the Project to achieve additional implementation.
  - (6) A description of the Project's funding that includes the projected cost and actual cost of the Project, how much of the Project Funds were incurred, and how much funding was contributed to the Project from other sources. Identify funding sources that have been "leveraged" by the Project and plans for funding future activities.
  - (7) Planned or potential follow-up activities, such as any additional steps necessary to achieve the water quality objectives, (TMDL) or local watershed plans.
  - (8) Appropriate photos and graphics.
  - (9) A list of items submitted as outlined in the Submittal Schedule.
  - (10) Any additional information that is deemed appropriate by the Project Director or Project Manager.
- (b) Final Project Report.

The Recipient must prepare a Final Project Report that addresses, to the extent feasible, comments made by the Project Manager on the Draft Final Project Report. Submit one (1) reproducible master and an electronic copy of the final.

- (c) Final Project Summary.

The Recipient must prepare a brief summary of the information contained in the Final Project Report, including before and after photographs (including photographs of any permanently installed signage), as appropriate.

#### A.6 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.

#### A.7 SIGNAGE.

The Recipient shall place a sign in a prominent location on the Project site and shall maintain the sign in good condition for the duration of the construction or implementation period (if applicable), or at the Recipient's headquarters. 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 by the United States Environmental Protection Agency under the Federal Nonpoint Source Pollution Control Program (Clean Water Act Section 319) through an agreement with the State Water Resources Control Board.”

For projects that include an Education an Outreach component within the scope of work above, Recipient must install signage the remains installed for the duration of this Agreement, ending on the Records Retention End Date. Photographs of this permanently installed signage must be included with the Recipient's Final Project Report, as described in Section A.5 of this Agreement.

#### A.8 SCHEDULE.

Failure to provide items by the due dates indicated in the table below may constitute a material violation of this Agreement. The Project Manager 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. The Recipient must complete and submit all work in time to be approved by the Division prior to the Work Completion Date. 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 submit the final Reimbursement Request prior to the Final Reimbursement Request Date set forth on the Cover Page.

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
<b>EXHIBIT A – SCOPE OF WORK AND SCHEDULE</b>			
A.2	SCOPE OF WORK		
1.	Project Management		
1.2	Notification of Upcoming Site Visits, Inspections, Meetings, Workshops, Tours, Trainings, and Construction Activities		Within 15 Days of Associated Activity
1.3	Detailed Project Schedule	90 Days After Execution	
2.	Environmental Clearance		
2.1.1	Draft CEQA/NEPA		April 30, 2026
2.1.2	Final CEQA/NEPA – Old Haul Road sites		120 Days After Execution
	Final CEQA/NEPA – Wurr Road sites		July 31, 2026
2.2	All Other Necessary Public Agency Approvals and Permits – Old Haul Road sites		120 Days After Execution
	All Other Necessary Public Agency Approvals and Permits – Wurr Road sites		July 31, 2026
2.2.1	Amendments to Necessary Public Agency Approvals and Permits		As Necessary
3.	Planning, Design, and Engineering		
3.1	Landowner Site Access & Maintenance Agreements		As Necessary
3.2	100% Design Plans and Specifications – Old Haul Road sites		120 Days After Execution
	100% Design Plans and Specifications – Wurr Road sites		July 31, 2026
3.3	Advertised Bid Documents and Bid Summary – Old Haul Road sites		60 Days After Execution
	Advertised Bid Documents and Bid Summary – Wurr Road sites		July 31, 2026

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
3.3.1	Notice(s) to Proceed and Awarded Implementation Contract(s) – Old Haul Road sites		120 Days After Execution
	Notice(s) to Proceed and Awarded Implementation Contract(s) – Wurr Road sites		October 31, 2026
4.	Implementation		
4.2	Proposed Changes that Arise During Construction		As Necessary
4.3	As-Built Drawings and Summary of Changes		December 31, 2026
5.	Monitoring and Reporting		
5.1	GIS Map of Project sites and Monitoring Locations		45 Days after Execution
5.2	Pre-, During, and Post-Construction Photo Documentation		Ongoing
5.3	Monitoring Plan		45 Days after Execution
A.3	STANDARD PROJECT REQUIREMENTS		
(a)	All HUC-12s for Project Site	90 Days After Execution	
	Stream Reach for Project Site		
(b)	Project Assessment and Evaluation Plan	120 Days After Execution	
(c)	Monitoring Plan		45 Days after Execution
(f)	Public Agency Approvals, Entitlements, Permits, or Rights of Way		As Necessary
(g)	Load Reduction Forms	Annually by December 31	
(h)	DBE Utilization Reports	Annually by September 1	
A.4	PROGRESS REPORTS	Quarterly	
A.5	FINAL REPORTS		
(a)	Draft Final Project Report	May 31, 2028	
(b)	Final Project Report	June 30, 2028	

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
(c)	Final Project Summary	June 30, 2028	
A.6	FINAL PROJECT INSPECTION AND CERTIFICATION	Before Final Invoice	
<b>EXHIBIT B – FUNDING TERMS</b>			
B.6	REIMBURSEMENT PROCEDURE		
(e)	Reimbursement Requests	Quarterly	
(i)	Final Reimbursement Request	July 31, 2028	

The Recipient must deliver any request for extension of the Work Completion Date no less than ninety (90) days prior to the Work Completion Date.

The Division may require corrective work to be performed prior to Project Completion. The State Water Board is not obligated to reimburse corrective work under this Agreement.

## EXHIBIT B – FUNDING TERMS

### 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 therefore from the State Water Board.

The Recipient agrees to provide a Match Contribution in the amount of the Match Contribution set forth on the Cover Page of this Agreement. This Match Contribution is based on the budget, funding sources, and amounts submitted by the Recipient in its application and during the negotiation of this Agreement. Any Match Contribution changes or adjustments requested by the Recipient must be approved, in advance and in writing, by the Project Manager and may require an amendment to this Agreement.

Only expenses that are otherwise eligible under the Guidelines will be counted towards the Recipient's Match Contribution. If, at Work Completion, the Recipient has provided a Match Contribution that is less than the full Match Contribution set forth on the Cover Page of this Agreement, the State Water Board may proportionately reduce the Project Funds, upon approval of the Deputy Director of the Division.

### 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**

Budget costs are contained in the Summary Project Cost Table below:

LINE ITEM	PROJECT FUNDS	MATCH CONTRIBUTION	TOTAL PROJECT COSTS
Personnel Services	\$0	\$0	\$0
Operating Expenses	\$0	\$0	\$0
Professional / Consulting Services	\$0	\$0	\$0
Construction	\$1,000,000	\$921,247	\$1,921,247
<b>TOTAL</b>	<b>\$1,000,000</b>	<b>\$921,247</b>	<b>\$1,921,247</b>

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

**B.5 LINE ITEM ADJUSTMENTS.**

- (a) Subject to the prior review and approval of the Project Manager, adjustments between existing line items may be used to defray allowable direct costs up to fifteen percent (15%) of the total Project Funding Amount, including any amendment(s) thereto. Line Item adjustments approved by the Project Manager must be de minimis, less than fifteen percent (15%) of the total Project Funding Amount, and may not include any changes to the Scope of Work. Line item adjustments in excess of fifteen percent (15%) or line item adjustments that result in a change to the scope of work will require an Agreement amendment. If the detailed budget includes an amount for the Recipient’s personnel costs, that amount is based on the hours, classifications, and rates submitted by the Recipient in its application. Any changes to the hours, classifications, and rates must be approved, in advance and in writing, by the Project Manager.
  - (b) The Recipient may submit a request for an adjustment in writing to the Project Manager. Such adjustment may not increase or decrease the total funding amount. The Recipient shall submit a copy of the original 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.
  - (c) The sum of adjusted line items shall not exceed the total budget amount.
- B.6 REIMBURSEMENT PROCEDURE.**

Except as may be otherwise provided in this Agreement, reimbursement of Project Funds will be made as follows:

- (a) Upon execution and delivery of this Agreement, the Recipient may submit a Reimbursement Request for eligible Project Costs as well as to support Match Contribution as specified in this Exhibit from the Project Costs through submission to the State Water Board using the Reimbursement Request forms provided by the Project Manager.
- (b) Reimbursement Requests must contain the following information:
  - (1) The date of the request;
  - (2) The time period covered by the request, i.e., the term “from” and “to”;
  - (3) The total amount requested;
  - (4) Documentation of Match Contribution used
  - (5) Original signature and date (in ink), or electronic signature, consistent with the State Water Board’s approved procedures, of the Recipient’s Project Director or his/her designee; and
  - (6) The Final Reimbursement Request must be clearly marked “FINAL REIMBURSEMENT REQUEST” and must be submitted NO LATER THAN the Final Reimbursement Request Date.
- (c) The Recipient may sign Reimbursement Requests either by an electronic signature consistent with the State Water Board’s approved procedures or by a physical, handwritten signature. The parties mutually agree that an electronic signature consistent with the State Water Board’s approved procedures is the same as a physical, handwritten signature for the purposes of validity, enforceability, and admissibility.
- (d) Reimbursement Requests must be itemized based on the line items specified in the budget in this Exhibit. Reimbursement Requests must be complete, signed by the Recipient’s Project Director or his/her designee, and addressed to the Project Manager as set forth in this Agreement. Reimbursement Requests submitted in any other format than the one provided by the State Water Board will cause a Reimbursement Request to be disputed. In the event of such a dispute, the Project Manager will notify the Recipient. Payment will not be made until the dispute is resolved and a corrected Reimbursement Request is submitted. The Project Manager has the responsibility for approving Reimbursement Requests. Project Costs incurred prior to the Eligible Work Start Date of this Agreement will not be reimbursed.

- (e) Project Funds must be requested quarterly via Reimbursement Request for eligible costs incurred during the reporting period of the corresponding Progress Report, describing the activities and expenditures for which the reimbursement is being requested. Each Reimbursement Request must be accompanied by a Progress Report. Failure to provide timely Reimbursement Requests may result in such requests not being honored.
- (f) The Recipient agrees that it will not submit any Reimbursement Requests that include any Project Costs until such costs have been incurred and are currently due and payable by the Recipient, although the actual payment of such costs by the Recipient is not required as a condition of Reimbursement Request. Supporting documentation (e.g., receipts, laboratory invoices) must be submitted with each Reimbursement Request as well as to support Match Contribution claimed, if any. The amount requested for administration costs must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = total amount claimed). Reimbursement of Project Funds will be made only after receipt of a complete, adequately supported, properly documented, and accurately addressed Reimbursement Request.
- (g) The Recipient will not seek reimbursement of any Project Costs that have been reimbursed from other funding sources.
- (h) The Recipient must use Project Funds within thirty (30) days of receipt to reimburse contractors, vendors, and other Project Costs. Any interest earned on Project Funds must be reported to the State Water Board and will either be required to be returned to the State Water Board or deducted from future reimbursements. In the event that the Recipient fails to disburse Project Funds to contractors or vendors within thirty (30) days from receipt of the Project Funds, the Recipient must immediately return such Project Funds to the State Water Board. Interest shall accrue on such Project Funds from the date of reimbursement through the date of mailing of Project Funds to the State Water Board. If the Recipient held such Project Funds in interest-bearing accounts, any interest earned on the Project Funds shall also be due to the State Water Board.
- (i) The Recipient must submit its final Reimbursement Request no later than the Final Reimbursement Request Date specified herein. If the Recipient fails to do so, then the undisbursed balance of this Agreement may be deobligated.
- (j) The Recipient agrees that it will not request a reimbursement unless that cost is allowable, reasonable, and allocable.
- (k) Notwithstanding any other provision of this Agreement, no reimbursement shall be required at any time or in any manner that is in violation of or in conflict with federal or state laws, policies, or regulations.

- (l) The Recipient agrees that it shall not be entitled to interest earned on undisbursed Project Funds.
- (m) The Recipient must include any other documents or requests required or allowed under this Agreement.

**B.7 CONTINGENT DISBURSEMENT.**

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.

**B.8 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 2019-NOV

GENERAL TERMS AND CONDITIONS 2019-NOV is posted at [https://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/general\\_terms.html](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](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 Persons. 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 Persons 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, § 14000 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, subds. (a)-(f) et seq.; Cal. Code Regs., tit. 2, § 7285 et seq.) Such regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. 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:
- a. the Recipient has received funds as a result of a material misrepresentation in the funding application or other submitted document; or
  - b. 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](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.

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

- “Authorized Representative” means the duly appointed representative of the Recipient as set forth in the certified original of the Recipient’s authorizing resolution that designates the Authorized Representative by title.
- “Eligible Work Start Date” means the date set forth on the Cover Page of this Agreement, establishing the date on or after which any costs may be incurred and eligible for reimbursement hereunder.
- “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, which the Division reasonably determines would materially impair the Recipient’s ability to satisfy its obligations under this Agreement.
  - B) Failure to operate the Project, unless the Division has given its approval for such non-operation.
- “Guidelines” means the State Water Board’s “2024 Nonpoint Source Grant Program Guidelines.”
- “Indirect Costs” means those costs incurred for a common or joint purpose benefiting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.
- “Match Contribution” means funds provided by the Recipient towards the Project Costs incurred after the date that the State Water Board formally notified the Recipient by email that the Project has been approved for funding. Funds spent on ineligible Project Costs do not constitute Match Contribution.
- “Project Director” means an employee of the Recipient designated by the Authorized Representative to be responsible for the overall management of the administrative and technical aspects of the executed Agreement.
- “Recipient” means San Mateo County.
- “Useful Life” means the economically useful life of the Project beginning at Work Completion and is set forth in Exhibit A.

## D.2 THIRD-PARTY AGREEMENTS.

As a condition precedent to construction and/or implementation disbursements, the Recipient must submit draft and final agreement(s) with all entities that will either construct, own, or maintain a portion(s) of the Project or Project property, including but not limited to site access and maintenance agreements with all landowners of properties where implementation work will occur, satisfactory to the Division and Division's counsel, defining the rights and responsibilities of each party. All such agreements must be recorded with the local county recorder's office and submitted to the Project Manager.

## D.3 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 the 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 the Recipient is a party or by which the Recipient is bound as of the date of execution of this Agreement by the Recipient.
- d. Except as set forth in this paragraph, there are, as of the date of execution of this Agreement by the Recipient, no pending or, to the Recipient's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency which materially affect, or if resolved unfavorably to the Recipient, would materially affect, the financial condition or operations of the Recipient, 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. The 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 (10) years, the Recipient has not failed to demonstrate compliance with state or federal audit disallowances.

- g. Any financial statements or other financial documentation of the Recipient previously delivered to the State Water Board as of the date(s) set forth in such financial statements or other financial documentation: (a) are materially complete and correct; (b) present fairly the financial condition of the Recipient; and (c) have been prepared in accordance with GAAP. Since the date(s) of such financial statements or other financial documentation, 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 the Recipient and approved in writing by the State Water Board.
- h. The Recipient has sufficient real or personal property 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, except as disclosed to the State Water Board.
- i. The Recipient has disclosed to the State Water Board all proceedings, actions, or offers of which the Recipient has knowledge or belief that may in any way affect the Recipient's ability to access or legally possess all of the property necessary for the purpose of this Agreement, including any proceedings, actions, or offers to lease, purchase, or acquire by eminent domain any of the real or personal property related to or necessary for the Project.
- 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.

#### D.4 ACKNOWLEDGEMENTS.

The Recipient must include the following acknowledgement in any web page or website, 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 by the United States Environmental Protection Agency and the State Water Resources Control Board under the Federal Nonpoint Source Pollution Control Program (Clean Water Act Section 319). 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.5 [RESERVED]

#### D.6 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.7 OPERATION AND MAINTENANCE.

The Recipient shall ensure that the facility and structures constructed or improved as part of the Project are sufficiently and properly staffed, operated, and maintained throughout the term of this Agreement, consistent with the purposes of this Agreement. The Recipient assumes all operation 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.8 INSURANCE.

The Recipient will procure and maintain or cause to be maintained insurance on the 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 Project) as are usually covered in connection with systems similar to the 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 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 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 Project must be free and clear of all claims and liens.

The 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.9 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 on the prior execution of a written agreement between the Recipient and the party obtaining ownership or continuing the use of the Project that substantial use of the Project will continue for its Useful Life. 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. In the event of the approved abandonment, discontinued use of, lease, sale, transferred ownership, or disposal of all or a significant part or portion of the Project during its Useful Life, all other obligations and responsibilities of the Recipient in this Agreement will continue.

**D.10 NOTICE.**

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

- a. Within 24 hours, the Recipient must notify the Party Contacts by phone and by email, and also notify the Nonpoint Source Program Manager Jessica Leonard [Jessica.Leonard@waterboards.ca.gov](mailto:Jessica.Leonard@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:
  - (1) Bankruptcy, insolvency, receivership or similar event of the Recipient, or actions taken in anticipation of any of the foregoing;

- (2) Change of ownership of the Project (no change of ownership may occur without written consent of the Division);
- (3) Loss, theft, damage, or impairment to Project;
- (4) Events of Default, except as otherwise set forth in this section;
- (5) A proceeding or action by a public entity to acquire the Project by power of eminent domain.
- (6) 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;
- (7) Consideration of dissolution, or disincorporation;
- (8) Enforcement actions by or brought on behalf of the State Water Board or Regional Water Board;
- (9) 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;
- (10) 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;
- (11) Any circumstance, combination of circumstances, or condition, which is expected to or does delay Work Completion for a period of ninety (90) days or more;
- (12) 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;
- (13) 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;

- (14) Any allegation of research misconduct involving research activities that are supported in whole or in part with USEPA funds under this Project, as set forth in the Federal Subaward Conditions;
- (15) Any Project monitoring, demonstration, or other implementation activities required in this Agreement;
- (16) 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 fifteen (15) working days' notice to the Division;
- (17) Any event requiring notice to the Division pursuant to any other provision of this Agreement;
- (18) The award of the prime construction contract for the Project; and the initiation of construction of the Project; and
- (19) Work Completion and Project Completion.

#### D.11 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.12 DISPUTES.

The Recipient must continue with the responsibilities under this Agreement during any dispute. The Recipient may, in writing, appeal a staff decision within thirty (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 thirty (30) days. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be

provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute. 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.13 STATE PROGRAM REQUIREMENTS.

a. Supplemental Environmental Projects.

The Recipient shall not use Project Funds for supplemental environmental projects required by Regional Water Boards.

b. Watershed Management Plan Consistency.

The Recipient certifies that any watershed protection activity undertaken as part of this Project will be consistent with the applicable, adopted, local watershed management plans and the applicable Water Quality Control Plan (Basin Plan and/or Statewide) adopted by a Regional Water Board or the State Water Board, where such plans exist. Any such activity occurring in the San Gabriel and Los Angeles watersheds shall be consistent with the San Gabriel and Los Angeles River Watershed and Open Space Plan as adopted by the San Gabriel and Lower Los Angeles Rivers and Mountain Conservancy and the Santa Monica Mountains Conservancy.

c. Web Content Accessibility

Upon request, the Recipient shall ensure that any data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work submitted to the State Water Board or uploaded directly to any State internet website or database in the performance of this Agreement comply with the accessible content requirements set forth in Government Code sections 7405 and the most current Web Content Accessibility Guidelines published by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success criteria.

d. As applicable, the Recipient shall comply with the Open and Transparent Water Data Act (Water Code, section 12406) and with State Water Board Resolution No. 2018-0032. As a condition of receiving disbursements under this Agreement, the Recipient shall adhere to the protocols for data sharing, transparency, documentation and quality control developed by the Department of Water

Resources, available at [https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/All-Programs/AB-1755/Protocols for AB1755 a y19.pdf](https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/All-Programs/AB-1755/Protocols%20for%20AB1755%20a%20y19.pdf). As a condition of receiving disbursements under this Agreement, the Recipient shall also adhere to State Water Board's Strategic Data Action Plan developed pursuant to Resolution No. 2018-0032, available at [https://www.waterboards.ca.gov/resources/data\\_databases/docs/sdap\\_draft.pdf](https://www.waterboards.ca.gov/resources/data_databases/docs/sdap_draft.pdf).

#### D.14 STATE CROSS-CUTTERS.

The Recipient represents that, as applicable, it complies and covenants to maintain compliance with the following for the term of the Agreement:

- a. 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.
- b. Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.
- c. Monthly Water Diversion Reporting requirements, including requirements set forth in Water Code section 5103.
- d. 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.
- e. Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.
- f. Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Water Code, § 10610 et seq.).
- g. Urban Water Demand Management requirements, including the requirements of section 10608.56 of the Water Code.
- h. Delta Plan Consistency Findings requirements, including the requirements of Water Code section 85225 and California Code of Regulations, Title 23, section 5002.
- i. Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.
- j. Charter City Project Labor Requirements, including the requirements of Labor Code section 1782 and Public Contract Code section 2503.

- k. 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.
- l. 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.

D.15 EXECUTIVE ORDER N-6-22 – RUSSIAN SANCTIONS.

- a. 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.
- b. 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.
- c. 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.16 DAMAGES FOR BREACH OF FEDERAL CONDITIONS.

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

#### D.17 ACCESS AND INSPECTION.

In addition to the obligations set forth in section 2 of the General Terms and Conditions incorporated in Exhibit C of this Agreement, the Recipient must ensure that the USEPA, the Office of Inspector General, any member of Congress, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times during the term of the Agreement.

#### D.18 FINANCIAL MANAGEMENT SYSTEMS.

- a. The Recipient must comply with federal standards for financial management systems. The Recipient agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit preparation of reports required by the federal government and tracking of Project funds to a level of expenditure adequate to establish that such funds have not been used in violation of federal or state law or the terms of this Agreement. To the extent applicable, the Recipient is bound by, and must comply with, the provisions and requirements of the federal Single Audit Act (SAA) of 1984, 2 CFR part 200, subpart F, and 2 CFR section 200.302, and updates or revisions, thereto, including but not limited to:

- (1) Maintain an annual (Fiscal Year) accounting system and identify all expenditures of federal financial assistance;

- (2) Conduct a SAA audit using an independent auditor in those Fiscal Years when expenditures of total federal financial assistance equal or exceed \$1,000,000, and submit the SAA audit to the Federal Audit Clearinghouse within the earlier of thirty (30) calendar days after receipt of the auditor's report(s) or nine (9) months of the end of the audit period;
- (3) Notify the Division when a SAA audit has been conducted and submitted to the Federal Audit Clearinghouse;
- (4) Notify and provide the Division with a copy of the SAA audit within thirty (30) days of completion of the audit;
- (5) Inform the Division of findings and recommendations pertaining to federal financial assistance provided through the State Water Board contained in SAA audits conducted by the Recipient;
- (6) Initiate corrective actions for audit reports with findings and recommendations that impact federal financial assistance provided through the State Water Board and notify the Division when corrective actions are complete.

#### D.19 FEDERAL AWARD INFORMATION.

- a. Subrecipient name: San Mateo County
- b. Subrecipient's Unique Entity Identifier: FVM6Z58P4FW3
- c. Federal Award Identification Number (FAIN): 97957525
- d. Federal Award Date: 97957525 = 07/25/2024
- e. Federal Award Amount: \$8,625,200
- f. Federal award project description: This agreement provides support to the State of California to implement its nonpoint source management program, focusing on watersheds with water quality impairments caused by polluted runoff from nonpoint sources. Nonpoint source implementation projects include a variety of structural and non-structural best management practices (BMPs), watershed planning, monitoring, technology demonstrations, and a variety of education/outreach programs. The proposed work in this agreement includes: implementing projects to reduce impairments such as sediments and nutrients in targeted watersheds or to protect high-quality waters, funding watershed planning efforts, and coordination with other State programs and partner agencies to advance the State's NPS Management Plan. The anticipated deliverables and expected outcomes include achieving and reporting on accomplishments and load reductions associated with developing and implementing regulatory mechanisms to manage NPS pollution from various sources, and funding and managing sub-awards that reduce pollutant loads by implementing BMPs.

- g. Federal Awarding Agency: USEPA, Region 9, Water Division, WTR-1, 75 Hawthorne Street, San Francisco, CA 94105. Awarding official for USEPA is Carolyn Truong, Grant Management Officer.
- h. CFDA Number and Name: 66.460 – Nonpoint Source Implementation.
- i. Pass-through Entity: California State Water Resources Control Board, 1001 I Street, Sacramento, CA 95814. Awarding official for the State Water Board is Joe Karkoski.
- j. Subaward Period: May 1, 2025 to June 30, 2028
- k. Amount of federal funds obligated by this action: \$1,000,000
- l. Total amount of federal funds obligated to the subrecipient: \$1,000,000
- m. The State Water Board's indirect cost rate for the Federal Award is 84.36%.
- n. The award is not for purposes of R&D.
- o. The Recipient's indirect cost rate for this Agreement is ten (10%) percent.

D.20 FEDERAL SUBAWARD CONDITIONS.

- a. The Recipient shall comply with applicable USEPA general terms and conditions found at <https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2023-or-later>.
- b. The Recipient shall not use Project Funds, including Match Contribution, to engage in lobbying the federal or state governments or in litigation against the United States or the State. The Recipient certifies to the best of its knowledge and belief that:
  - (1) No federally appropriated funds or Match Contribution have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
  - (2) If any funds other than federally appropriated funds or Match Contribution have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and notify the State Water Board.

- (3) The Recipient shall require this certification from all parties to any contract or agreement that the Recipient enters into and under which the Recipient incurs costs for which it seeks reimbursement under this Agreement.
- c. The Recipient shall comply with Small, Minority, and Women's Business (MBE/WBE) requirements including, but not limited to, the following:
- (1) Follow the six (6) affirmative steps stated in 40 CFR part 33.
  - (2) If applicable, the Recipient agrees to report DBE utilization to the Division. In generating such report, the Recipient may use or rely on State Water Board Form DBE UR334 or USEPA Form 5700-52A.
- d. The Recipient shall follow the procurement procedures set forth at 2 CFR sections 200.318 to 200.326, including those requiring competition, when the Recipient acquires goods and services from contractors or consultants or awards any contracts in any way related to the Project. The Recipient acknowledges that it is subject to pre-procurement review by the USEPA and the State Water Board. The Recipient shall include the language in Appendix II to 2 CFR part 200 in all contracts and subcontracts to be awarded for the Project.
- e. The Recipient agrees that it will not request a reimbursement unless that cost is allowable, reasonable, and allocable. In addition to any requirements imposed by the State Water Board, the Recipient shall abide by the federal cost principles in subpart E to 2 CFR part 200 in determining allowable and allocable costs.
- f. The Recipient shall abide by the property management and disposition requirements in 2 CFR sections 200.310 through 200.316 for property, equipment, or supplies acquired with funds provided under this Agreement.
- g. The Recipient shall promptly complete all actions necessary to ensure closeout of this subaward by the State Water Board, including:
- (1) The Recipient shall submit, no later than ninety (90) calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the State Water Board to complete closeout of the subaward. The State Water Board may approve extensions when requested by the Recipient, but is not obligated to do so.
  - (2) Unless the State Water Board authorizes an extension, the Recipient must liquidate all obligations incurred under this subaward not later than ninety (90) calendar days after the end date of the period of performance as specified in the terms and conditions of the federal award.
  - (3) The Recipient must promptly refund any balances of unobligated cash that the State Water Board paid that are not authorized to be retained by the

Recipient for use in other projects. See OMB Circular A-129 and see 2 CFR section 200.345 Collection of amounts due, for requirements regarding unreturned amounts that become delinquent debts.

- (4) The Recipient must account for any real and personal property acquired with funds provided under this Agreement or received from the federal government in accordance with 2 CFR sections 200.310 through 200.316 and section 200.329. If required by the Division, the Recipient shall submit reports annual on the status of any real property in accordance with section 200.329. This requirement shall survive the term of this Agreement.
- (5) Closeout does not affect or otherwise alter:
  - i. The right of the State Water Board and/or the USEPA to disallow costs and recover funds on the basis of a later audit or other review.
  - ii. The obligation of the Recipient to return any funds due as a result of later refunds, corrections, or other transactions including final Indirect Cost rate adjustments.
  - iii. The right of the State Water Board or USEPA to require an audit under subpart F of 2 CFR part 200.
  - iv. Any property management and disposition requirements set forth in 2 CFR sections 200.310 through 200.316 and section 200.329.
  - v. Records retention as required by this Agreement.
- h. The salary rate paid to individual consultants retained by the Recipient or the Recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at an hourly or daily rate. This rate does not include overhead or travel expenses. Contracts with firms for services which are awarded using the procurement requirements in subpart D to 2 CFR 200 are not affected by this limitation unless the terms of the contract provide the Recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. (2 CFR 1500.9 and USEPA Subaward Policy.)
- i. Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this Agreement. (USEPA Subaward Policy.)
- j. If this Agreement includes activities involving the performance or use of environmental instruments, QAPPs must be developed for these projects. These documents must be submitted and approved by the State Water Board's quality assurance manager before measurement activities are undertaken.

- k. Any animal feedlot operation (AFO) that receives financial assistance pursuant to this Agreement shall implement a comprehensive nutrient management plan consistent with the United States Department of Agriculture Natural Resources Conservation Service technical guidelines for Comprehensive Nutrient Management Plans.
- l. The Recipient shall assure that any management practices implemented as part of this Agreement shall be properly maintained for the intended purposes during its life span. Operation includes the administration, management and performance of non-maintenance actions needed to keep the completed practice safe and functioning as intended. Maintenance includes work to prevent deterioration of the practice. This condition applies to all sub-awards funded in whole or in part with funds disbursed hereunder. The State Water Board and USEPA retain the right to inspect a practice to ensure this condition is met, and to request a refund if it is not.
- m. The Recipient certifies that this Project will implement activity(ies) that contribute to reduced pollutant loads as called for in an existing TMDL or a TMDL that is currently under development, unless this requirement has been waived for this Project pursuant to the Guidelines available at:  
[https://www.waterboards.ca.gov/water\\_issues/programs/nps/319grants.html](https://www.waterboards.ca.gov/water_issues/programs/nps/319grants.html).
- n. The Recipient certifies that this Project will implement activity(ies) that are part of watershed plans that address the USEPA, Region IX, required watershed-based plan elements or, if applicable, an alternative watershed-based plan submitted pursuant to the Guidelines.
- o. The Recipient shall ensure the continued proper operation and maintenance of all management practices that have been implemented in accordance with Natural Resources Conservation Service's Field Office Technical Guides (see Appendix B) or other appropriate standards.
- p. The Recipient certifies that it is providing a Match Contribution of at least twenty five percent (25%) (except individual septic system upgrades that require a minimum Match Contribution of seventy-five percent [75%]) of the total amount to be spent on this Project.
- q. The Recipient, its employees, contractors and subcontractors, and their employees may not engage in severe forms of trafficking in persons during the term of this Agreement, procure a commercial sex act during the term of this Agreement, or use forced labor in the performance of this Agreement. The Recipient must include this provision in its contracts and subcontracts under this Agreement. The Recipient must inform the State Water Board immediately of any information regarding a violation of the foregoing. The Recipient understands that failure to comply with this provision may subject the State Water Board to loss of federal funds. The Recipient agrees to compensate the State Water Board for

any such funds lost due to its failure to comply with this condition, or the failure of its contractors or subcontractors to comply with this condition. The State Water Board may unilaterally terminate this Agreement if the Recipient that is a private entity is determined to have violated the foregoing.

- r. If, during the previous fiscal year, the Recipient has received eighty percent (80%) or more of its gross annual revenue and/or \$25,000,000 or more in annual gross revenue from federal financial assistance subject to the Federal Funding Accountability and Transparency Act, as defined in Code of Federal Regulations, Title 2, section 170.320, then the Recipient shall report the names and total compensation of each of the Recipient's five (5) most highly compensated executives for the Recipient's preceding completed fiscal year to the State Water Board within (ten) 10 days of the issuance of this Agreement for reporting purposes.
- s. The Recipient, its contractors, and subcontractors, shall comply with all applicable civil rights statutes, regulations, and national policy requirements, including Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, section 13 of the CWA, Title IX of the Education Amendments of 1972 (including 40 CFR part 5), 40 CFR part 7, and Executive Order 13798 (2 CFR section 200.300).
- t. Any electronic and information technology systems or products funded through this Agreement must be designed to include usability features or functions that accommodate the needs of persons with disabilities (including those who use assistive technology). The Recipient is encouraged to follow guidelines established under section 508 of the Rehabilitation Act, codified at 36 CFR part 1194, with respect to enabling individuals with disabilities to participate in its programs supported by this Project.
- u. Within thirty (30) days, the Recipient shall disclose to the State Water Board any potential conflict of interest consistent with section 4.0 and 7.0 of the USEPA's Final Financial Assistance Conflict of Interest Policy at <https://www.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. A conflict of interest may result in disallowance of costs.
- v. The Recipient agrees that if its network or information system is connected to USEPA networks to transfer data using systems other than the Environmental Information Exchange Network or USEPA's Central Data Exchange, it will ensure that any connections are secure. The Recipient shall abide by the applicable portions of the USEPA State Grant Cybersecurity Condition, available at <https://www.epa.gov/grants/state-grant-cybersecurity-condition/>.
- w. The Recipient agrees to immediately notify the Project Manager in writing about any allegation of research misconduct involving research activities that are supported in whole or in part with USEPA funds under this Project, including

fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, or ordering, advising, or suggesting that subordinates engage in research misconduct.

- x. USEPA and the State Water Board have the right to reproduce, publish, use, and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement.
- y. Where an invention is made with Project Funds, USEPA and the State Water Board retain the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the Recipient. The Recipient must utilize the Interagency Edison extramural invention reporting system at <http://Edison.gov> and shall notify the Division when an invention report, patent report, or utilization report is filed.
- z. The Recipient shall follow USEPA Policy Directive Number FEM-2012-02. The Recipient agrees to demonstrate the competency of any laboratory carrying out any activities involving the generation of environmental data on its behalf. Laboratory competency shall be maintained for the duration of the project period of this Agreement and documented during the annual reporting process. A copy of the policy is available online at <https://www.epa.gov/measurements/>.
- aa. The Recipient agrees that all geospatial data created as result of this Agreement must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at <https://www.fgdc.gov/>.
- bb. The Recipient represents that it is not a corporation that has any unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and it is not a corporation that was convicted of a felony criminal violation under a federal law within the preceding twenty-four (24) months.
- cc. The Recipient agrees to comply with, and require all contractors and subcontractors to comply with, USEPA's Scientific Integrity Policy, available at <https://www.epa.gov/osa/policy-epa-scientific-integrity>, when conducting, supervising, and communicating science and when using or applying the results of science. For purposes of this condition scientific activities include, but are not limited to, computer modelling, economic analysis, field sampling, laboratory experimentation, demonstrating new technology, statistical analysis, and writing a review article on a scientific issue.
- dd. The Recipient shall not suppress, alter, or otherwise impede the timely release of scientific findings or conclusions; intimidate or coerce scientists to alter scientific data, findings, or professional opinions or exert non-scientific influence on

scientific advisory boards; knowingly misrepresent, exaggerate, or downplay areas of scientific uncertainty; or otherwise violate the USEPA's Scientific Integrity Policy. The Recipient must refrain from acts of research misconduct, including publication or reporting, as described in USEPA's Policy and Procedures for Addressing Research Misconduct, Section 9.C, and must ensure scientific findings are generated and disseminated in a timely and transparent manner, including scientific research performed by contractors and subcontractors.

- ee. The Recipient agrees to comply with the Animal Welfare Act of 1966 (7 U.S.C. §§ 2131-2156). The Recipient also agrees to abide by the "U.S. Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research, and Training," available at <http://grants.nih.gov/grants/olaw/references/phspol.htm#USGovPrinciples/>.
- ff. Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended; 42 USC §§ 4601-4655. The Recipient must comply with the Act's implementing regulations at 49 CFR 24.101 through 24.105.
- gg. Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans; 42 USC § 7606; 33 USC § 1368. Except where the purpose of this Agreement is to remedy the cause of the violation, the Recipient may not procure goods, services, or materials from suppliers excluded under the federal System for Award Management: <https://sam.gov/>.
- hh. The Recipient represents and warrants that it and its principals are not excluded or disqualified from participating in this transaction as such terms are defined in Parts 180 and 1532 of Title 2 of the Code of Federal Regulations (2 CFR). If the Recipient is excluded after execution of this Agreement, the Recipient shall notify the Division within ten (10) days and shall inform the Division of the Recipient's exclusion in any request for amendment of this Agreement. The Recipient shall comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR. Such compliance is a condition precedent to the State Water Board's performance of its obligations under this Agreement. When entering into a covered transaction as defined in Parts 180 and 1532 of 2 CFR, the Recipient shall require the other party to the covered transaction to comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR.
- ii. The Recipient certifies that no Project Funds will be used on:
  - (1) Video surveillance or telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology

- Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (2) Telecommunications or video surveillance services produced by such entities;
  - (3) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country; or
  - (4) Other telecommunications or video surveillance services or equipment in violation of 2 CFR 200.216.

jj. The Recipient acknowledges that funds received under this Agreement are subject to the Build America Buy America (BABA) requirements of Public Law 117-58 (the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL), signed into law on November 15, 2021). Specifically, unless (1) the Recipient has requested and obtained a waiver from USEPA on file with the State Water Board pertaining to the Project or the Project is otherwise covered by a general applicability waiver, as confirmed in writing by the State Water Board; or (2) the State Water Board and, to the extent the Project is co-funded by any other agency using federal funds subject to BABA requirements, each such agency has advised the Recipient in writing that the BABA requirements are not applicable to the Project, the Recipient shall ensure and certifies that, as these terms are defined within and made applicable by Public Law 117-58:

- (1) all iron and steel used in the Project are produced in the United States;
- (2) the manufactured products used in the Project are produced in the United States; and
- (3) the construction materials used in the Project are produced in the United States.

The Recipient must require its contractors and subcontractors to comply with all applicable BABA requirements and must include the following provision in its contracts and subcontracts under this Agreement:

*“The contractor acknowledges to and for the benefit of the County of San Mateo and the State Water Board that it understands the goods and services under this contract are being funded with federal monies and have statutory requirements commonly known as “Build America, Buy America;” that requires all of the iron and steel, manufactured products, and construction materials used in the project to be produced in the United States (“Build America, Buy America*

*Requirements”) including iron and steel, manufactured products, and construction materials provided by the contactor pursuant to this contract. The contractor hereby represents and warrants to and for the benefit of the County of San Mateo and the State Water Board (a) the contractor has reviewed and understands the Build America, Buy America Requirements, (b) all of the iron and steel, manufactured products, and construction materials used in the project will be and/or have been produced in the United States in a manner that complies with the Build America, Buy America Requirements, unless a waiver of the requirements is approved, and (c) the contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Build America, Buy America Requirements, as may be requested by the County of San Mateo and the State Water Board. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the contractor shall permit the County of San Mateo and the State Water Board to recover as damages against the contractor any loss, expense, or cost (including without limitation attorney’s fees) incurred by the County of San Mateo and the State Water Board resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State Water Board or any damages owed to the State Water Board by the County of San Mateo). If the contractor has no direct contractual privity with the State Water Board, as a lender or awardee to the County of San Mateo for the funding of its project, the County of San Mateo and the contractor agree that the State Water Board is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State Water Board.”*

The Recipient must inform the State Water Board immediately of any information regarding a violation of the foregoing.

**D.21 NON-EXCLUSIVE REMEDIES FOR NON-COMPLIANCE WITH FEDERAL REQUIREMENTS.**

- a. In addition to any other remedies by the State Water Board as may be set forth elsewhere in this Agreement, in the event that the Recipient fails to comply with any federal statutes, regulations, or the terms and conditions of a federal award, including this subaward, the State Water Board may, in its discretion:
  - (1) Impose any conditions described in 2 CFR section 200.207;
  - (2) Temporarily withhold cash payments pending correction of the deficiency by the Recipient or more severe enforcement action by the Recipient;
  - (3) Disallow (that is, deny both use of funds and any applicable Match Contribution credit toward) all or part of the cost of any activity or action not in compliance;

- (4) Wholly or partly suspend or terminate the federal subaward;
- (5) Recommend suspension or debarment proceedings be initiated by the USEPA as authorized under 2 CFR part 180;
- (6) Withhold further federal awards for the project or program; and
- (7) Take other remedies that may be legally available.