

STATE OF CALIFORNIA

AGREEMENT SUMMARY

STD 215 (Rev. 04/2020)

AGREEMENT NUMBER

D2101053

AMENDMENT NUMBER

☐ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED

1. CONTRACTOR'S NAME City of Rialto (8636-110)		2. FEDERAL I.D. NUMBER 95-6000768
3. AGENCY TRANSMITTING AGREEMENT State Water Resources Control Board	4. DIVISION, BUREAU, OR OTHER UNIT Division of Financial Assistance	5. AGENCY BILLING CODE 079552
6a. CONTRACT ANALYST NAME Brian Morris	6b. EMAIL Brian.morris@waterboards.ca.gov	6c. PHONE NUMBER (916) 322-3603

7. HAS YOUR AGENCY CONTRACTED FOR THESE SERVICES BEFORE?

☐ No ☐ Yes (If Yes, enter prior Contractor Name and Agreement Number)

PRIOR CONTRACTOR NAME

PRIOR AGREEMENT NUMBER

8. BRIEF DESCRIPTION OF SERVICES

Lake Rialto Wastewater Treatment - Habitat Management and Community Open Space Project.

9. AGREEMENT OUTLINE (Include reason for Agreement: Identify specific problem, administrative requirement, program need or other circumstances making the Agreement necessary; include special or unusual terms and conditions.)

The City of Rialto's Lake Rialto Project includes converting a dry pit to a 10-acre wetland that will be filled with tertiary treated wastewater from the Rialto Wastewater Treatment Plant. The Lake Rialto Project will provide open space, trails, wildlife habitat, water quality improvements, educational use, and public access. The City of Rialto currently discharges tertiary treated effluent from the Rialto Wastewater Treatment Plant into a concrete-lined flood control channel that flows into the unlined Rialto Channel, connecting with the Santa Ana River downstream. The Project will create a shallow marsh wetland area (3 to 4 acres) that receives tertiary treated effluent, and a deeper lake (6 acres) that receives cleaned effluent once it has passed through bio-filtration, providing both water temperature and nutrient management benefits for downstream fish and bird habitat within the Rialto Channel. An estimated 41 acre-feet of total seasonal storage would be created for downstream habitat enhancement. The area surrounding Lake Rialto would be a public open space with approximately 1 mile of pedestrian perimeter trails, passive recreation, and educational programming.

10. PAYMENT TERMS (More than one may apply)

<input type="checkbox"/> Monthly Flat Rate	<input type="checkbox"/> Quarterly	<input type="checkbox"/> One-Time Payment	<input type="checkbox"/> Progress Payment
<input type="checkbox"/> Itemized Invoice	<input type="checkbox"/> Withhold _____ %	<input type="checkbox"/> Advanced Payment Not To Exceed _____	or _____ %
<input type="checkbox"/> Reimbursement / Revenue			
<input type="checkbox"/> Other (Explain) General Fund			

11. PROJECTED EXPENDITURES

FUND TITLE	ITEM	FISCAL YEAR	CHAPTER	STATUTE	PROJECTED EXPENDITURES
<input type="checkbox"/> General Fund	3940-101-0001	21/22	21	2021	\$1,050,000.00
<input type="checkbox"/>					
<input type="checkbox"/>					
<input type="checkbox"/>					
<input type="checkbox"/>					
<input type="checkbox"/>					
OBJECT CODE 39400552-5432000-001-3560000C27 \$1,050,000.00				AGREEMENT TOTAL	\$1,050,000.00

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OPTIONAL USE

Ultimate Fund 0001

AMOUNT ENCUMBERED BY THIS DOCUMENT

\$1,050,000.00

PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT

\$0.00

I certify upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.

TOTAL AMOUNT ENCUMBERED TO DATE

\$1,050,000.00

ACCOUNTING OFFICER'S SIGNATURE








ACCOUNTING OFFICER'S NAME (Print or Type)

Tirunesh Futassa

DATE SIGNED

Apr 4, 2022

12. AGREEMENT

AGREEMENT	TERM FROM	TERM THROUGH	TOTAL COST OF THIS TRANSACTION	BID, SOLE SOURCE, EXEMPT
Original	01/07/2022	06/30/2024	\$1,050,000.00	Exempt
 Amendment 1				
 Amendment 2				
 Amendment 3				
				
 TOTAL			\$1,050,000.00	

13. BIDDING METHOD USED☐ Request for Proposal (RFP) (Attach justification if secondary method is used)☐ Use of Master Service Agreement☐ Invitation for Bid (IFB)☐ Exempt from Bidding (Give authority for exempt status)☐ Sole Source Contract (Attach STD. 821)☒ Other (Explain) SAM 1233 (B)(2)(b)

Note: Proof of advertisement in the State Contracts Register or an approved form STD. 821, Contract Advertising Exemption Request, must be attached

14. SUMMARY OF BIDS (List of bidders, bid amount and small business status) (If an amendment, sole source, or exempt, leave blank)**15. IF AWARD OF AGREEMENT IS TO OTHER THAN THE LOWER BIDDER, EXPLAIN REASON(S) (If an amendment, sole source, or exempt, leave blank)****16. WHAT IS THE BASIS FOR DETERMINING THAT THE PRICE OR RATE IS REASONABLE?**

Bids and proposal are evaluated to determine that all costs are reasonable and in compliance with all applicable State and Federal laws that project cost analysis have been performed and allowance tables established. Salaries are paid in accordance with industry's prevailing wages.

17a. JUSTIFICATION FOR CONTRACTING OUT (Check one)☐ Contracting out is based on cost savings per Government Code 19130(a). The State Personnel Board has been so notified.☐ Contracting out is justified based on Government Code 19130(b). When this box is checked, a completed JUSTIFICATION - CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 547.60 must be attached to this document.☒ Not Applicable (Interagency / Public Works / Other Loan/Grant)**17b. EMPLOYEE BARGAINING UNIT NOTIFICATION**☐ By checking this box, I hereby certify compliance with Government Code section 19132(b)(1).

AUTHORIZED SIGNATURE

SIGNER'S NAME (Print or Type)

DATE SIGNED

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18. FOR AGREEMENTS IN EXCESS OF \$5,000: Has the letting of the agreement been reported to the Department of Fair Employment and Housing?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> N/A	22. REQUIRED RESOLUTIONS ARE ATTACHED	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> N/A
19. HAVE CONFLICT OF INTEREST ISSUES BEEN IDENTIFIED AND RESOLVED AS REQUIRED BY THE STATE CONTRACT MANUAL SECTION 7.10?	<input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A	23. IS THIS A SMALL BUSINESS AND/OR A DISABLED VETERAN BUSINESS CERTIFIED BY DGS?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
20. FOR CONSULTING AGREEMENTS: Did you review any contractor evaluations on file with the DGS Legal Office?	<input type="checkbox"/> None on file <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A	SB/DVBE Certification Number: _____	
21. IS A SIGNED COPY OF THE FOLLOWING ON FILE AT YOUR AGENCY FOR THIS CONTRACTOR? A. Contractor Certification Clauses <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A B. STD 204 Vendor Data Record <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A			
24. ARE DISABLED VETERANS BUSINESS ENTERPRISE GOALS REQUIRED? (If an amendment, explain changes if any) Governmental or Non-Governmental Entity		<input checked="" type="checkbox"/> No (Explain below) <input type="checkbox"/> Yes _____ % of Agreement	
25. IS THIS AGREEMENT (WITH AMENDMENTS) FOR A PERIOD OF TIME LONGER THAN THREE YEARS? Project may take longer than 3 years to complete.		<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If Yes, provide justification below)	

I certify that all copies of the referenced Agreement will conform to the original agreement sent to the Department of General Services.

SIGNATURE

NAME/TITLE (Print or Type)

DATE SIGNED

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JUSTIFICATION - CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 547.60

In the space provided below, the undersigned authorized state representative documents, with specificity and detailed factual information, the reasons why the contract satisfies one or more of the conditions set forth in Government Code section 19130(b). Please specify the applicable subsection. Attach extra pages if necessary.

The undersigned represents that, based upon his or her personal knowledge, information or belief the above justification correctly reflects the reasons why the contract satisfies Government Code section 19130(b).

SIGNATURE	NAME/TITLE (Print or Type)	DATE SIGNED	
PHONE NUMBER	STREET ADDRESS		
EMAIL	CITY	STATE	ZIP



CLEAN WATER CONSTRUCTION GRANT

AGREEMENT NO. D2101053

BY AND BETWEEN

CITY OF RIALTO ("Recipient")

AND

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

FOR THE PURPOSE OF THE

PROJECT NO. C-06-8636-110

LAKE RIALTO HABITAT MANAGEMENT AND COMMUNITY OPEN SPACE PROJECT ("Project")

-
- SEN. BILL NO. 170 (2021-2022 REG. SESS.) § 174, AMENDING THE BUDGET ACT OF 2021, SEN. BILL NO. 129 (2021-22 REG. SESS.) § 19.56(E), ITEM 93.

PROJECT FUNDING AMOUNT (GRANT): \$1,050,000
ESTIMATED REASONABLE PROJECT COST: \$8,000,000

ELIGIBLE WORK START DATE: JANUARY 7, 2022
ELIGIBLE CONSTRUCTION START DATE: MAY 23, 2022
CONSTRUCTION COMPLETION DATE: NOVEMBER 1, 2023
FINAL REIMBURSEMENT REQUEST DATE: MAY 1, 2024
RECORDS RETENTION END DATE: NOVEMBER 1, 2059

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 – SPECIFIC FUNDING PROVISIONS
 - EXHIBIT C – GENERAL TERMS AND CONDITIONS 2019-NOV
 - EXHIBIT D – SPECIAL CONDITIONS
2. The following documents are also incorporated by reference:
 - 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		City of Rialto	
Section:	Division of Financial Assistance		
Name:	David Houston, Project Manager	Name:	Thomas J. Crowley, Utilities Manager
Address:	1001 I Street, 16th Floor	Address:	150 S. Palm Ave.
City, State, Zip:	Sacramento, CA 95814	City, State, Zip:	Rialto, CA 92376
Phone:	(916) 322-6042	Phone:	(909) 820-8056
Email:	david.houston@waterboards.ca.gov	Email:	tjcrowley@rialtoca.gov

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. The Recipient represents, warrants, and commits to the following as of the Eligible Work Start Date and continuing thereafter for the term of this Agreement, which shall be at least until the Records Retention End Date:
 - (a) The Recipient agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents.
 - (b) The execution and delivery of this Agreement, including all incorporated documents, has been duly authorized by the Recipient. Upon execution by both parties, this Agreement constitutes a valid and binding obligation of the Recipient, enforceable in accordance with its terms, except as such enforcement may be limited by law.
 - (c) None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of Recipient. The Recipient is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. The Recipient is able to pay its debts as they become due. The Recipient maintains sufficient insurance coverage considering the scope of this Agreement, including, for example but not necessarily limited to, general liability, automobile liability, workers compensation and employer liability, professional liability.

- (d) The Recipient is in compliance with all State Water Board funding agreements to which it is a party.
5. 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.

CITY OF RIALTO:

By: Thomas J. Crowley
Name: Thomas J. Crowley
Title: Utilities Manager

Date: 7/28/2022

STATE WATER RESOURCES CONTROL BOARD:

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

Date: 8/3/2022

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 thirty (30) years. The funding under this Agreement shall be used for the purpose of constructing approximately 10 acres of wetlands to improve fish and bird habitat through flexible management of the water within the Rialto Channel.

A.2 SCOPE OF WORK.

The Recipient agrees to do the following:

The City of Rialto's Lake Rialto Project includes construction of approximately 10-acre wetland to improve fish and bird habitat through flexible management of the water within the Rialto Channel. An estimated 41 acre-feet of total seasonal storage would be created for downstream habitat enhancement. The area surrounding Lake Rialto would be a public open space with approximately 1 mile of pedestrian perimeter trails, passive recreation, and educational programming.

A.3 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 Project Completion. 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
1.	Final Budget Approval Package		December 1, 2022

The Recipient must award the prime construction contract and begin construction timely. The Recipient must deliver any request for extension of the Completion of Construction Date no less than 90 days prior to the Completion of Construction 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.

A.4 PROGRESS REPORTS.

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

- 1) A summary of progress to date including a description of progress since the last report, percent construction complete, percent contractor invoiced, and percent schedule elapsed;
- 2) A description of compliance with environmental requirements;
- 3) A listing of change orders including amount, description of work, and change in contract amount and schedule; and

- 4) Any problems encountered, proposed resolution, schedule for resolution, and status of previous problem resolutions.

A.5 PROJECT COMPLETION REPORT.

(a) The Recipient must submit a Project Completion Report to the Division with a copy to the appropriate Regional Water Board on or before the due date established by the Division and the Recipient at the time of final project inspection. The Project Completion Report must include the following:

- i. Description of the Project,
- ii. Description of the water quality problem the Project sought to address,
- iii. Discussion of the Project's likelihood of successfully addressing that water quality problem in the future, and
- iv. Summary of compliance with applicable environmental conditions.

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

A.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.

EXHIBIT B – FUNDING AMOUNTS

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 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.3 BUDGET COSTS

(a) Estimated budget costs are contained in the Summary Project Cost Table below:

LINE ITEM	TOTAL ESTIMATED COST	PROJECT FUNDING AMOUNT
Construction	\$6,260,000	\$1,050,000
Pre-Purchased Material/Equipment	\$0	\$0
Purchase of Land	\$0	\$0
Change Order Contingency	\$626,000	\$0
Force Account	\$0	\$0
Allowances (Soft Costs)	\$1,114,000	\$0
TOTAL	\$8,000,000	\$1,050,000

The Division's Final Budget Approval and related Form 259 and Form 260 will document a more detailed budget of eligible Project Costs and Project funding amounts.

Reasonable indirect costs may be allowable upon approval by the Division.

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

B.4 LINE ITEM ADJUSTMENTS.

Upon written request by the Recipient, the Division may adjust the line items of the Summary Project Cost Table at the time of Division's Final Budget Approval. Upon written request by the Recipient, the Division may also adjust the line items of the Summary Project Cost Table as well as the detailed budget at the time of Recipient's submittal of its final claim. Any line item adjustments to the Summary Project Cost Table that are due to a change in scope of work will require an Agreement amendment. The sum of adjusted line items in both the Summary Project Cost Table and the detailed budget must not exceed the Project Funding Amount. The Division may also propose budget adjustments.

Under no circumstances may the sum of line items in the budget approved through the Final Budget Approval process exceed the Project Funding Amount. Any increase in the Project Funding Amount will require an Agreement amendment.

B.5 REIMBURSEMENT PROCEDURE.

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

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

B.6 REVERTING FUNDS AND DISCUMBRANCE.

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 incorporated by reference and is posted at
https://www.waterboards.ca.gov/water_issues/programs/grants_loans/general_terms.html

EXHIBIT D – SPECIAL CONDITIONS

D.1 DEFINITIONS

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

- Work Completion
- Work Completion Date

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

- "Allowance" means an amount based on a percentage of the accepted bid for an eligible project to help defray the planning, design, and construction engineering and administration costs of the Project.
- "Authorized Representative" means the duly appointed representative of the Recipient as set forth in the certified original of the Recipient's authorizing resolution that designates the authorized representative by title.
- "Completion of Construction" means the date, as determined by the Division after consultation with the Recipient, that the work of building and erection of the Project is substantially complete and is established on the Cover Page of this Agreement.
- "Eligible Construction Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which construction costs may be incurred and eligible for reimbursement hereunder.
- "Eligible Work Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which any non-construction costs may be incurred and eligible for reimbursement hereunder.
- "Enterprise Fund" means the enterprise fund of the Recipient in which Revenues are deposited.
- "Event of Default" means, in addition to the meanings set forth in Exhibit C, the occurrence of any of the following events:
 - a) A material adverse change in the condition of the Recipient the Revenues, or the System, which the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement; or
 - b) Failure to operate the System or the Project, unless the Division has given its approval for such non-operation.
- "Final Budget Approval (FBA)" means the Division-approved final budget for the Project, as set forth in Exhibit B.
- "Indirect Costs" means those costs that are incurred for a common or joint purpose benefiting more than one cost objective and are not readily assignable to the Project (i.e., costs that are not directly related to the Project). Examples of Indirect Costs include, but are not limited to: central service costs; general administration of the Recipient; non-project-specific accounting and personnel services performed within the Recipient organization; depreciation or use allowances on buildings and equipment; the costs of operating and maintaining non-project-specific facilities; tuition and conference fees; generic overhead or markup; and taxes.
- "Initiation of Construction" means the date that notice to proceed with work is issued for the Project, or, if notice to proceed is not required, the date of commencement of building and erection of the Project.
- "Revenues" means, for each Fiscal Year, all gross income and revenue received or receivable by the Recipient from the ownership or operation of the System, determined in accordance with GAAP, including all rates, fees, and charges (including connection fees and charges) as received by the Recipient for the services of the System, and all other income and revenue howsoever derived by the Recipient from the ownership or operation of the System or arising from the

System, including all income from the deposit or investment of any money in the Enterprise Fund or any rate stabilization fund of the Recipient or held on the Recipient's behalf, and any refundable deposits made to establish credit, and advances or contributions in aid of construction.

- "System" means all wastewater collection, pumping, transport, treatment, storage, and disposal facilities, including land and easements thereof, owned by the Recipient, including the Project, and all other properties, structures, or works hereafter acquired and constructed by the Recipient and determined to be a part of the System, together with all additions, betterments, extensions, or improvements to such facilities, properties, structures, or works, or any part thereof hereafter acquired and constructed.
- "Useful Life" means the economically useful life of the Project beginning at Project Completion and is set forth in Exhibit A.

D.2 ADDITIONAL REPRESENTATIONS AND WARRANTIES

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.

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.

The execution, delivery, and performance by Recipient of this Agreement, including all incorporated documents, do not violate any provision of any law or regulation in effect as of the date of execution of this Agreement by the Recipient, or result in any breach or default under any contract, obligation, indenture, or other instrument to which Recipient is a party or by which Recipient is bound as of the date of execution of this Agreement by the Recipient.

The Recipient is duly organized and existing and in good standing under the laws of the State of California. Recipient must at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority. Within the preceding ten years, the Recipient has not failed to demonstrate compliance with state or federal audit disallowances.

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. The Recipient legally possesses property access rights to any real or personal property necessary for the purposes of this Agreement for which the Recipient does not legally possess all real or personal property rights.

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.3 ACKNOWLEDGEMENTS

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

- "Funding for this project has been provided in full or in part through an agreement with the State Water Resources Control Board. The contents of this document do not necessarily

reflect the views and policies of the foregoing, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.”

D.4 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.5 OPERATION AND MAINTENANCE

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

D.6 CONTINUOUS USE OF PROJECT; NO LEASE, SALE, TRANSFER OF OWNERSHIP, OR DISPOSAL OF PROJECT.

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

D.7 NOTICE

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

- (a) Within 24 hours, the Recipient must notify the Party Contacts by phone and by email, and also notify the Division by phone at (916) 327-9978 and by email to CleanWaterSRF@waterboards.ca.gov of any discovery of any potential tribal cultural resource and/or archaeological or historical resource. Should a potential tribal cultural resource and/or archaeological or historical resource be discovered during construction or Project implementation, the Recipient must ensure that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the Division has determined what actions should be taken to protect and preserve the resource. The Recipient must implement appropriate actions as directed by the Division.
- (b) The Recipient must notify the Division and Party Contacts promptly of the occurrence of any of the following events:
 - i. Bankruptcy, insolvency, receivership or similar event of the Recipient, or actions taken in anticipation of any of the foregoing;
 - ii. Change of ownership of the Project (no change of ownership may occur without written consent of the Division);
 - iii. Loss, theft, damage, or impairment to Project;

- iv. Events of Default, except as otherwise set forth in this section;
- v. A proceeding or action by a public entity to acquire the Project by power of eminent domain.
- vi. Any litigation pending or threatened with respect to the Project or the Recipient's technical, managerial or financial capacity or the Recipient's continued existence;
- vii. Consideration of dissolution, or disincorporation;
- viii. Enforcement actions by or brought on behalf of the State Water Board or Regional Water Board.
- ix. The discovery of a false statement of fact or representation made in this Agreement or in the application to the Division for this funding, or in any certification, report, or request for reimbursement made pursuant to this Agreement, by the Recipient, its employees, agents, or contractors;
- x. Any substantial change in scope of the Project. The Recipient must undertake no substantial change in the scope of the Project until prompt written notice of the proposed change has been provided to the Division and the Division has given written approval for the change;
- xi. Any circumstance, combination of circumstances, or condition, which is expected to or does delay Completion of Construction for a period of ninety (90) days or more;
- xii. Cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more;
- xiii. Any Project monitoring, demonstration, or other implementation activities required in this Agreement;
- xiv. Any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by state representatives with at least ten (10) working days' notice to the Division;
- xv. Any event requiring notice to the Division pursuant to any other provision of this Agreement;
- xvi. The award of the prime construction contract for the Project; and the initiation of construction of the Project; and
- xvii. Completion of Construction, and Project Completion.

D.8 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 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.

D.9 DISPUTES.

The Recipient must continue with the responsibilities under this Agreement during any dispute. The Recipient may, in writing, appeal a staff decision within 30 days to the Deputy Director of the Division or designee, for a final Division decision. The Recipient may appeal a final Division decision to the State Water Board within 30 days. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute. This provision does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the State Water Board, or any official or representative thereof, on any question of law. This section relating to disputes does not establish an exclusive procedure for resolving claims within the meaning of Government Code sections 930 and 930.4.

D.10 STATE CROSS-CUTTERS

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

- The California Environmental Quality Act (CEQA), as set forth in Public Resources Code 21000 et seq. and in the CEQA Guidelines at Title 14, Division 6, Chapter 3, Section 15000 et seq.
- Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.
- Monthly Water Diversion Reporting requirements, including requirements set forth in Water Code section 5103.
- Public Works Contractor Registration with Department of Industrial Relations requirements, including requirements set forth in Sections 1725.5 and 1771.1 of the Labor Code.
- Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.
- Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Water Code, § 10610 et seq.).
- Urban Water Demand Management requirements, including the requirements of Section 10608.56 of the Water Code.
- Delta Plan Consistency Findings requirements, including the requirements of Water Code section 85225 and California Code of Regulations, title 23, section 5002.
- Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.
- Charter City Project Labor Requirements, including the requirements of Labor Code section 1782 and Public Contract Code section 2503.

- The Recipient agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with directives or orders issued pursuant to Division 7 of the Water Code.

D.11 EXECUTIVE ORDER N-6-22 — RUSSIAN SANCTIONS.

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

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

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

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