November 20, 2019

Sonoma County Water Agency
Request for Proposals

Deadline for Submission
2:00 p.m., Wednesday, January 8, 2020

RE: REQUEST FOR PROPOSALS FOR RUSSIAN RIVER COUNTY SANITATION DISTRICT HEADWORKS, LIFT STATIONS, AND FORCE MAIN PROJECT

1. INTRODUCTION

1.1. Russian River County Sanitation District (District) invites proposals from firms interested in providing engineering design and condition assessment services (Project).

1.2. District does not guarantee work to any qualified firm.

1.3. This is not a bid process.

2. PASS/FAIL REQUIREMENTS

2.1. Proposals that do not pass the requirements and show evidence thereof under the following Sections will not be evaluated under Section 10, Evaluation, below.
   a. Section 3, Funding (Submittal items 9.2.c and 9.2.d).
   b. Section 5, Minimum Qualifications (Submittal item 9.2.e).
   c. Section 6, Prevailing Wages (Submittal item 9.2.f).
3. **FUNDING**

3.1. The Project is funded fully, or in part, from federal funds and may span two grant awards. The first grant award is a planning grant, and the second is a construction grant that will occur after the completion of the planning grant. The construction grant funding is not guaranteed. Therefore, this Project will contain Notices to Proceed (NTP), and funding is not guaranteed for the full agreement. However, as each NTP is authorized, funding for the current stage will be guaranteed.

3.2. Federal funding requires outreach to Disadvantaged Business Enterprises (DBE).

3.3. Procedural guidelines and required forms have been included with this Request for Proposals (RFP) as Attachment 1. If you intend to subcontract any work, these guidelines must be followed for DBE compliance, and the forms must be submitted with the proposal. The selected firm will be required to report actual DBE participation periodically to District during the term of the agreement.

3.4. Federal funding also requires prospective lower tier participants (consultants and sub-consultants receiving federal funds) to provide certification regarding debarment and lobbying activities. These documents are included at the end of Attachment 2, and both certifications must be signed and returned with the proposal.

4. **BACKGROUND**

4.1. District began operations in 1983. The service area covers approximately 2,700 acres and includes the unincorporated areas of Rio Nido, Guerneville, Guernwood Park, and Vacation Beach. District provides service to approximately 3,300 parcels using a gravity collection system and treats wastewater from approximately 3,200 equivalent single-family dwellings. The collection system includes approximately 35 miles of gravity sewer pipeline and 11 lift stations that convey wastewater to the Russian River treatment facility. District’s wastewater treatment plant is located on Neeley Road in Guerneville. The plant is permitted to provide tertiary treatment for an average dry-weather flow of up to 0.71 million gallons per day (mgd) and 3.5 mgd during peak wet weather. Currently, inflow to the plant averages approximately 0.3 mgd annually and reaches 3.5 mgd during peak wet-weather flow. Wastewater treatment is accomplished by coarse screening and aerated grit removal, two aerated biological nutrient removal activated sludge basins, three secondary clarifiers, two tertiary filters, ultra violet (UV) disinfection, and two holding ponds with a total storage capacity of 4.5 million gallons. This plant was upgraded in 2002 (tertiary units and clarifier), 2011 (UV disinfection), and 2014 (biological nutrient removal). Many of District’s facilities are approaching the end of their useful life with most being over 35 years old. District is permitted by the North Coast Regional Water Quality Control Board (Regional Board) and is
allowed to discharge advanced treated wastewater up to one percent of the flow of the Russian River between October 1 and May. During the remainder of the year, recycled water is used to irrigate land adjacent to the treatment plant and the Northwood Golf Course. Historically, the collection system, including several of the lift stations, are inundated with floodwaters during high water events. Existing enforcement actions by the Regional Board required condition assessment of the force main; however, since that time desktop evaluations have determined that it is more feasible to rehabilitate or replace the force main rather than perform the expensive condition assessment task. While the Regional Board is in agreement with this approach, it has not memorialized this through the enforcement process. It is anticipated that during the next permit adoption cycle (expected in 2020) the assessment of the force main will be replaced by rehabilitation or replacement.

4.2. The purpose of this Project is to perform condition assessments and design of headworks and lift stations improvements and design of the selected force main rehabilitation or replacement option to meet Regional Board requirements. This may include, but is not limited to, the following:

a. Collect, organize, and analyze existing condition information

b. Complete a force main hydraulics engineering analysis to identify recommended approaches to improve influent flow conditions and to help determine rehabilitation or replacement options; a condition assessment of the force main is not to be conducted

c. Perform condition assessment of the headworks including equipment, structure, and site conditions

d. Perform condition assessments of the 11 lift stations and appurtenances

e. Develop improvement recommendations to address observed deficiencies at the headworks and lift stations, which may include new hydraulic strategies to optimize treatment plant operations

f. Develop planning-level estimates of probable costs to implement recommended improvements to maintain facility service through planned service life

g. Conduct alternatives analysis to determine cost-effective and prioritized recommendations

h. Develop designs for selected Project components

4.3. Anticipated deliverables may include, but are not limited to, the following:

a. Condition assessment of headworks and lift stations

b. Engineering analysis of system hydraulics and alternatives and feasibility analysis to determine method of rehabilitating or replacing the force main

c. Project Engineering Report for the headworks, lift stations, and force main including engineering analysis and condition assessment results of
headworks and lift stations; system hydraulics, alternatives, and feasibility analysis of force main; recommended improvements; and improvement plan based on “immediate,” “short-term,” and “long-term” timeframe designations. For the “immediate” and “short term” recommendations, include alternatives, cost estimates, alternatives analysis, and conceptual designs for the preferred alternatives.

d. 30% design plans, specifications, and constructability/operations review for “immediate” recommendations from the Project Engineering Report.

e. 60% plans and specifications.

f. 90% plans and specifications.

g. 99% plans and specifications.

h. Final plans and specifications.

i. Construction cost estimate and estimated construction schedule/duration at each design milestone.

j. Assistance during bidding and construction to include, but not be limited to:

   i. Response to requests for information (RFIs).

   ii. Submittal review.

   iii. Construction support.

4.4. As-built drawings for some of the existing improvements and original design are included here: www.sonomawater.org/media/PDF/Projects/RFQ/RFP_1819-013_Drawings_44_MB.zip

5. MINIMUM QUALIFICATIONS

5.1. Professional civil engineering license valid in California is mandatory. Firms that do not meet the minimum qualifications will not have their proposals evaluated under Section 10, Evaluation, below.

6. PREVAILING WAGES

6.1. Pursuant to Labor Code sections 1720 and 1771, the Project is subject to the payment of prevailing wages and will be subject to compliance monitoring and enforcement by the California Department of Industrial Relations (DIR). Each firm submitting a proposal must be a DIR-registered contractor pursuant to Labor Code section 1725.5 prior to submission of a proposal.

6.2. A proposal from any firm that is not already a DIR-registered contractor will be rejected for non-responsiveness. Pursuant to Labor Code section 1725.5, all subcontractors identified in a firm’s proposal shall be DIR-registered contractors as well.

6.3. Prevailing wage requirements are further detailed in Article 13 of the sample agreement, included as Attachment 3 to this RFP.
7. **LIVING WAGE**

7.1. If selected for an agreement, the firm must comply with any and all federal, state, and local laws – including, but not limited to the County of Sonoma Living Wage Ordinance – affecting the services provided under the contract to be awarded pursuant to this RFP. Without limiting the generality of the foregoing, firms submitting proposals expressly acknowledge and agree that any agreement developed pursuant to this RFP is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the agreement will be considered a material breach and may result in termination of the agreement.

7.2. The Living Wage Ordinance can be found at: [http://sonomacounty.ca.gov/CAO/Living-Wage-Ordinance/](http://sonomacounty.ca.gov/CAO/Living-Wage-Ordinance/)

8. **SITE VISIT**

8.1. District will conduct a half-day site visit of lift stations and the headworks on Thursday, December 5, 2019. Space is limited; please email George.Lincoln@scwa.ca.gov to reserve your space. Meet at 7:45 am at 404 Aviation Boulevard, Santa Rosa, California, in front of Sonoma Water’s administrative office building entrance for an 8:00 am departure. District staff will provide van transportation for site visit attendees -- private vehicles are not permitted. District will provide water; attendees can bring a refillable water container.

9. **SUBMITTAL OF PROPOSALS**

9.1. A sample agreement is enclosed. Please review the entire sample agreement carefully before submitting a proposal. If any significant omissions or ambiguities in this RFP come to District’s attention while under review by interested firms, District will make a uniform written response to all parties.

9.2. Proposals shall include the following:
   a. A table of contents and page numbers.
   b. Legal name of company, how organized (non-profit, LLC, etc.), and where company is incorporated. Not required for individuals.
   c. Required evidence of DBE outreach. If no outreach is conducted pursuant to Section 3 of this RFP, include the statement “No subcontractors or subconsultants will be used for this Project.” (See Section 3 above.)
   d. Required certifications regarding debarment and lobbying. (See Section 3 above.)
   e. Evidence of minimum qualifications. (See Section 5 above.)
   f. Evidence of registration with DIR. (See Section 6 above.)
g. A statement of similar work previously performed, including at least three references with name of organization, contact person, and telephone number.

h. A statement of qualifications and a list of personnel to be assigned to the work, including a resume for each, listing education, experience, and expertise in this type of work.

i. A list of persons or firms to whom any phase of the work may be subcontracted, including a statement of their qualifications and experience.


k. An estimated breakdown of costs for the work, including hourly rates of personnel to be assigned to the work and anticipated expenses.

l. A description of the Project approach including the methodology developed to perform required services and a schedule.

m. A staffing plan that includes estimated hours and personnel devoted to any particular portion or element of the work.

n. Any proposed exceptions to the indemnification, insurance, or other standard terms of the sample agreement. Please make comments as specific as possible; do not reference exceptions included in prior agreements. Exceptions not explicitly stated in the proposal will not be considered during negotiations. Please note that proposing significant changes to standard terms may result in a lower evaluation score. If standard terms are acceptable, include the statement “No exception to standard terms.”

9.3. Submit an electronic copy of the proposal to District at Submissions@scwa.ca.gov by 2:00 p.m., Wednesday, January 8, 2020. Please reference TW 18/19-013 in the subject line of the email. A confirmation email will be generated in response to each submission to this email address. If a confirmation email is not received, please check spam and junk mail folders.

9.4. In addition, submit proposals to the County of Sonoma Purchasing Department via the Supplier Portal by the deadline for submission and in accordance with Attachment 4 (Supplier Portal Registration Guide).

9.5. Submit one hard copy of the proposal to District within one week of electronic submittal. Mail to the attention of Central Records, Russian River County Sanitation District c/o Sonoma County Water Agency, or hand deliver to 404 Aviation Boulevard, Santa Rosa, California 95403-9019. Please reference TW 18/19-013 on the front of the proposal.
10. **EVALUATION**

10.1. Proposals that do not include the information requested cannot be adequately evaluated. Evaluation will be based on the following criteria, which are listed in order of importance:

   a. Professional qualifications and demonstrated ability to perform the work (Submittal items 9.2.g, 9.2.h, 9.2.i, and 9.2.j).

   b. Responsiveness to the work requirements (Submittal items 9.2.l and 9.2.m).

   c. Exceptions to standard terms in the sample agreement (Submittal item 9.2.n).

   d. Thoroughness of proposal (Submittal items 9.2.a and 9.2.b).

10.2. The estimated breakdown of costs requested in Submittal item 9.2.k is not part of the qualification evaluation. This information will only be considered for purposes of selecting amongst qualified firms after the qualification evaluation is complete.

10.3. A final agreement will be offered to the firm selected, if any. If the selected firm is not willing to accept District’s offer, other qualified firms may be contacted.

11. **CONTACTS**

11.1. Please send questions about the content of this RFP to District at Submissions@scwa.ca.gov. Please reference TW 18/19-013 in the subject line of the email. If District considers interpretations or clarifications necessary, District will provide a written supplement to this RFP.

11.2. For technical issues with the County of Sonoma Supplier Portal, please contact the County of Sonoma Purchasing Department Supplier Desk at supplier-desk@sonoma-county.org.

Sincerely,

Pamela Jeane, P.E.
Assistant General Manager – Operations

Encs

c: George Lincoln
   Christine R. Teaford
   Lynne Rosselli
   Joan Hultberg
Attachment 1 – Disadvantaged Business Enterprises (DBE) Procedural Guidelines

NOTE
These procedures are required only if you intend to employ subcontractors to perform work under the agreement.

1. INTRODUCTION
A. Sonoma Water intends to seek reimbursement of its costs incurred in connection with this project from the Clean Water State Revolving Fund (CWSRF), which requires outreach to minority-owned, women-owned, and small businesses, both by Sonoma Water and any consultants, contractors, or subcontractors working on this project.
B. If Consultant will employ subconsultants or subcontractors for any work on the proposed project, Consultant must comply with the DBE procedures herein prior to submitting a proposal. If Consultant will not use subs, this Exhibit does not apply.
C. The goal of this document is to notify Consultant of compliance measures required under federal regulations. However, this document shall not operate to relieve Consultant of its duty to become fully informed regarding applicable state and federal regulations.
D. Reporting of outreach efforts for federal funding requirements shall be done on the forms included in this document.
E. In this document and on related forms, the acronym DBE is described as follows:

DBE Disadvantaged Business Enterprise:

For the purposes of this Agreement, a DBE means a business enterprise that is owned and controlled by one or more socially and economically disadvantaged persons as defined by the Small Business Administration, Environmental Protection Agency, or US Department of Transportation.

F. The following acronyms are sometimes used in this document and on related forms to describe federal agencies that provide resources that should be used to conduct outreach efforts described in Section 2 (Outreach Requirements):

1. Small Business Administration (SBA)
2. Minority Business Development Agency (MBDA)

G. To qualify as a DBE, a business must be certified by the U.S. EPA, U.S. Small Business Association, U.S. Department of Transportation, or by another state, local, tribal, or private entity whose certification criteria match those maintained by these federal agencies.
2. OUTREACH REQUIREMENTS

A. "GOOD FAITH" EFFORT PROCESS

Any public or private entity receiving federal funds must demonstrate that efforts were made to attract DBEs. The process to attract DBEs is referred to as the "Good Faith" effort. This effort requires the recipient, Consultant and any subcontractors to take the steps listed below to assure that DBEs are used whenever possible as sources of supplies, construction, equipment, or services. If a Consultant fails to take the steps outlined below shall cause the proposal to be rejected as non-responsive and/or be deemed a material breach of the contract.

<table>
<thead>
<tr>
<th>STEP 1: Include qualified DBE enterprises on solicitation lists.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultant shall ensure DBE enterprises are made aware of contracting opportunities to the fullest extent possible through outreach and recruitment activities. For example, publish notices in trade papers or newspapers and advertise on the websites of the following agencies: SBA and MBDA. Additional online resources are listed in Paragraph 7, below.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>STEP 2: Assure that DBE enterprises are solicited whenever they are potential sources.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solicitation should be as broad as possible and should occur throughout the life of the Project whenever procuring supplies, construction, or services. (See Step 5, below, for solicitation-related requirements.)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>STEP 3: Divide the total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBE enterprises.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consider in the scope of work whether portions of the work could be feasibly procured with DBE enterprises. This will include dividing total requirements into smaller tasks or quantities to permit maximum participation by DBEs.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>STEP 4: Establish delivery schedules, where the requirements of the work permit, which will encourage participation by DBE enterprises.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Make information on opportunities available to DBE enterprises well in advance, arrange time frames for contracts and establish delivery schedules in a way that encourages and facilitates participation by DBEs.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>STEP 5: In soliciting qualified firms, use the services of the U.S. Small Business Administration (SBA) and the Minority Business Development Agency (MBDA).</th>
</tr>
</thead>
<tbody>
<tr>
<td>These agencies offer several services that are provided at no cost, including Internet access to databases of DBE enterprises and the ability to post an advertisement seeking qualified DBE firms. Consultant must provide evidence (documentation) to Water Agency that the services of SBA and MBDA were used. See Table 1 below for website addresses.</td>
</tr>
</tbody>
</table>
TABLE 1. ACCESSING RESOURCES AND PRODUCING DOCUMENTATION

<table>
<thead>
<tr>
<th>Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Small Business Administration (SBA)</strong></td>
</tr>
<tr>
<td>A. Consultant can search and advertise for DBE services and supplies at the SBA website. Documentation, including negative reports should be provided to show proof of outreach.</td>
</tr>
<tr>
<td>- To perform searches for DBE firms, go to:</td>
</tr>
<tr>
<td>- <a href="http://web.sba.gov/pro-net/search/dsp_dsbs.cfm">http://web.sba.gov/pro-net/search/dsp_dsbs.cfm</a></td>
</tr>
<tr>
<td>- To document searches Consultant can:</td>
</tr>
<tr>
<td>- Print Adobe PDF copy of search results from the website, showing website address, description of work, search criteria, and date of search. Use reasonably broad search criteria for geographic boundaries and work descriptions to maximize the probability of generating a list of qualified DBEs. Consultant should try to make an effort to seek DBE firms working in the same geographic area in which Consultant seeks subcontractors/services for a given solicitation.</td>
</tr>
<tr>
<td>- To post opportunities for DBE firms (registration required) go to:</td>
</tr>
<tr>
<td>- <a href="http://web.sba.gov/subnet">http://web.sba.gov/subnet</a></td>
</tr>
<tr>
<td>- To document postings:</td>
</tr>
<tr>
<td>- Print Adobe PDF copy of posting from the website, showing website address and date of post.</td>
</tr>
<tr>
<td>B. Consultant should make an effort to send each entity on the list of qualified DBEs from the search results above a solicitation. Documentation, including negative reports should be provided:</td>
</tr>
<tr>
<td>- Evidence that qualified DBEs from the search results were solicited should be provided. Evidence may be in the form of emails, faxes, letters, or phone logs.</td>
</tr>
<tr>
<td><strong>2. U.S. Department of Commerce Minority Business Development Agency (MBDA):</strong></td>
</tr>
<tr>
<td>A. Consultant can email opportunities to the MBDA Business Development Office and they will post it/distribute it to area businesses in the identified trades. Include NAICS codes in the email. Emails should go to:</td>
</tr>
<tr>
<td>- SiewYee Lee</td>
</tr>
<tr>
<td>- <a href="mailto:slee@sanjoseembdacenter.com">slee@sanjoseembdacenter.com</a></td>
</tr>
<tr>
<td>- (408) 998-8058 Ext: 139</td>
</tr>
<tr>
<td>- Document this effort by saving a copy of the email to MBDA.</td>
</tr>
</tbody>
</table>
3. DOCUMENTATION OF OUTREACH EFFORTS

A. Water Agency requires evidence that Consultant has followed the affirmative steps above.

B. Prior to submitting your response or proposal to Water Agency, use Form 1 - DBE Checklist at the end of this document to document your DBE enterprises solicitation efforts. Read it carefully, follow its directions, and attach backup documentation described in Table 1 above.

C. In addition to the foregoing documentation requirements, Consultant shall provide semiannual reports on DBE enterprises utilization using a form provided by Sonoma Water.

4. ADMINISTRATIVE REQUIREMENTS

A. Consultant shall pay its subcontractors/suppliers/vendors for satisfactory performance no more than 30 days from the Consultant’s receipt of payment from Sonoma Water; and

B. If a DBE subcontractor/supplier/vendor fails to complete work under the subcontract for any reason, Consultant shall undertake the outreach steps described in Section 2, above, if soliciting a replacement subcontractor/supplier/vendor.

5. OTHER USEFUL RESOURCES

The web sites in the table below offer resources for expanding searches for eligible DBEs beyond those required sources listed above.

<table>
<thead>
<tr>
<th>Other Useful DBE Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>California Public Utilities Commission (CPUC)</td>
</tr>
<tr>
<td>CPUC maintains a database of DBE-owned business enterprises and serves to inform the public.</td>
</tr>
<tr>
<td><a href="http://www.cpuc.ca.gov/puc/supplierdiversity">http://www.cpuc.ca.gov/puc/supplierdiversity</a></td>
</tr>
<tr>
<td>California Department of Transportation (Caltrans)</td>
</tr>
<tr>
<td>Based on the federal Disadvantaged Business Enterprises (DBE) program, Caltrans maintains a database and provides directories of minority and woman-owned firms.</td>
</tr>
<tr>
<td>Always print the search results page(s) and keep them with the rest of the documentation.</td>
</tr>
<tr>
<td><a href="http://www.dot.ca.gov/hrb/bep">www.dot.ca.gov/hrb/bep</a></td>
</tr>
<tr>
<td>North American Industry Classification System (NAICS Code Search Tools)</td>
</tr>
<tr>
<td>Search by keyword or SIC code to get NAICS code</td>
</tr>
<tr>
<td><a href="http://www.naics.com/search.htm">http://www.naics.com/search.htm</a></td>
</tr>
<tr>
<td>U.S. EPA Office of Small, Disadvantaged Business Utilization (OSDBU)</td>
</tr>
<tr>
<td>OSDBU’s mission includes “fostering opportunities for partnerships, contracts, sub-agreements, and grants for small and socioeconomically disadvantaged concerns.” One of the resources to assist prime contractors is a listing of small and disadvantaged businesses (a vendor profile system) registered with OSDBU.</td>
</tr>
<tr>
<td><a href="http://cfpub.epa.gov/sbvyxv">http://cfpub.epa.gov/sbvyxv</a></td>
</tr>
</tbody>
</table>
FORM 1 DBE CHECKLIST

Purpose and Use: This form is to be completed by Consultant and submitted with its proposal if subconsultants will be used on the Project. Complete this checklist, answer all questions, and provide a written explanation for “No” answers. Sonoma Water uses this form to evaluate DBE outreach efforts undertaken by Consultant.

<table>
<thead>
<tr>
<th>DBE Checklist</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Did you solicit proposals or quotes from subcontractors/suppliers/vendors for this project?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Did you break down the project, where economically feasible, into smaller tasks, quantities, or components to permit maximum participation by DBE enterprises?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Did project components have reasonable delivery schedules so as to encourage maximum participation of DBEs?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Did you provide sufficient time to facilitate the submission of DBE proposals?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Did you use the services of the Small Business Administration (SBA) and the Minority Business Development Agency of the US Department of Commerce (MBDA)?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Did you identify DBEs that may be potential sources of supplies, construction, and services?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. If the answer to Question 6 (above) was “yes,” did you solicit proposals from those DBEs?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Supporting Documentation:

As specified in Exhibit A, Disadvantaged Business Enterprises (DBE) Procedures, please attach supporting documentation of outreach efforts, which may include, but is not limited to, the following: 1) copies of advertisement postings in newspapers, trade journals, or websites, 2) evidence of the use of the services of the Small Business Administration (SBA) and the Minority Business Development Agency of the US Department of Commerce (MBDA), such as search results showing the website address where search was performed, description of work, search criteria, and the date of search, and 3) evidence that qualified DBEs identified by Consultant were solicited, such as records of communications between Consultant and identified DBEs.

CERTIFICATION

I certify that I am duly authorized to bind the Consultant to this certification, that I have reviewed and understand the requirements described in Disadvantaged Business Enterprises (DBE) Procedures and that I have taken the steps required therein. I further understand and certify that Water Agency may review the records described above prior to Award of Contract and that failure to establish compliance to Water Agency’s satisfaction may result in rejection of the Proposal.

SIGNATURE: ____________________________

TITLE: ________________________________

DATE EXECUTED: ________________________
Attachment 2 – Federal Provisions

A. State Cross-Cutters.

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

i. 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.

ii. Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.

iii. Monthly Water Diversion Reporting requirements, including requirements set forth in Water Code section 5103.

iv. 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.

v. Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.

vi. Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Water Code, § 10610 et seq.).

vii. Urban Water Demand Management requirements, including the requirements of Section 10608.56 of the Water Code.

viii. Delta Plan Consistency Findings requirements, including the requirements of Water Code section 65225 and California Code of Regulations, title 23, section 5002.

ix. Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.


B. Federal Requirements and Cross-Cutters for SRF Funding.

The Recipient acknowledges, warrants compliance with, and covenants to continuing compliance with the following federal terms and conditions for the Useful Life of the Project:

i. Unless the Recipient has obtained a waiver from U.S. EPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient shall not purchase "iron and steel products" produced outside of the United States on this Project. Unless the Recipient has obtained a waiver from U.S. EPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient hereby certifies that all "iron and steel products" used in the Project were or will be produced in the United States. For purposes of this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. "Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

November 6, 2018 (9-5)
ii. The Recipient must include in full the Wage Rate Requirements (Davis-Bacon) language set forth below in all construction contracts and subcontracts.

iii. The Recipient must comply with the State Water Board’s signage requirements.

iv. The Recipient shall notify the State Water Board and the U.S. EPA contact of public or media events publicizing the accomplishment of significant events related to this Project and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days’ notice.

v. The Recipient shall comply with applicable EPA general terms and conditions found at http://www.epa.gov/opd, including but not limited to the following.

vi. No Recipient may receive funding under this Agreement unless it has provided its DUNS number to the State Water Board.

vii. The Recipient shall report the names and total compensation of each of its five most highly compensated executives for the preceding completed fiscal year.

viii. 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.

ix. To the extent applicable, the Recipient shall disclose to the State Water Board any potential conflict of interest consistent with U.S. EPA’s Final Financial Assistance Conflict of Interest Policy at https://www.epa.gov/grants/epas-final-financial-assistance-conflict-interest-policy. A conflict of interest may result in disallowance of costs.

x. U.S. EPA 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.

xi. Where an invention is made with Project Funds, U.S. EPA 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://IEDison.gov and shall notify the Division when an invention report, patent report, or utilization report is filed.

xii. The Recipient agrees that any reports, documents, publications or other materials developed for public distribution supported by this Agreement shall contain a Disclosure statement as required by the State Water Board.

xiii. The Recipient acknowledges that it 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.

November 6, 2018 (9-5)
xiv. The Recipient, its employees, contractors and subcontractors and their employees warrants that it will not engage in severe forms of trafficking in persons, 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.

xv. The Recipient certifies to the best of its knowledge and belief that:
   a. No federal appropriated funds 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.
   b. If any funds other than federal appropriated funds 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.

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 disbursements under this Agreement.

xvi. The Recipient must comply with the following federal non-discrimination requirements:
   a. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP).
   b. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities.
   c. The Age Discrimination Act of 1975, which prohibits age discrimination.
   d. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex.
   e. 40 CFR Part 7, as it relates to the foregoing.

xvii. If the Project relates to construction of a publicly owned treatment works, where the Recipient contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services, the Recipient shall ensure that any such contract is negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States Code, or an equivalent State qualifications-based requirement as determined by the State Water Board.
xviii. If the Project relates to construction of a publicly owned treatment works, the Recipient certifies that it has developed and is implementing a fiscal sustainability plan for the Project that includes an inventory of critical assets that are a part of the Project, an evaluation of the condition and performance of inventoried assets or asset groupings, a certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan, and a plan for maintaining, repairing, and, as necessary, replacing the Project and a plan for funding such activities.

xix. Executive Order No. 11246. The Recipient shall include in its contracts and subcontracts related to the Project the following provisions:

"(a) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

"(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(d) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(e) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
(g) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

xx. The Recipient agrees to comply with the requirements of U.S. EPA’s Program for Utilization of Small, Minority and Women’s Business Enterprises.

xxi. 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. [http://www.sam.gov/]


xxiii. The Recipient agrees that if its network or information system is connected to U.S. EPA networks to transfer data using systems other than the Environmental Information Exchange Network or U.S. EPA’s Central Data Exchange, it will ensure that any connections are secure.

xxiv. All geospatial data created pursuant to this Agreement that is submitted to the State Water Board for use by U.S. EPA or that is submitted directly to U.S. EPA must be consistent with Federal Geographic Data Committee endorsed standards. Information on these standards may be found at [www.fgdc.gov/]

xxv. If the Recipient is a water system that serves 500 or fewer persons, the Recipient represents that it has considered publicly-owned wells as an alternative drinking water supply.

November 6, 2018 (9-5)
For purposes of the following, “subrecipient” or “sub recipient” means the Applicant.

For purposes of the following, “recipient” or “State recipient” means the State Water Board.

1. Requirements For Sub recipients That Are Governmental Entities:

If a sub recipient has questions regarding when Davis-Bacon (DB) applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State Water Board at DavisBacon@waterboards.ca.gov or phone (916) 327-7323. The recipient or sub recipient may also obtain additional guidance from DOL’s web site at http://www.dol.gov/whd/

1. Applicability of the Davis-Bacon (DB) prevailing wage requirements.

DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a sub recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub recipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Sub recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the sub recipient shall monitor www.wdol.gov weekly to ensure that the wage determination contained in the solicitation remains current. The sub recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub recipient.

(ii) If the sub recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(i)(v). The sub recipient shall monitor www.wdol.gov on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the sub recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub recipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) Sub recipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.
(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub recipient’s contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL’s wage determination retroactive to the beginning of the contract or ordering instrument by change order. The sub recipient’s contractor must be compensated for any increases in wages resulting from the use of DOL’s revised wage determination.


(a) The Recipient shall ensure that the sub recipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF - financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in 29 CFR § 5.1 or, for CWSRF projects, the FY 2015 Water Resource Reform and Development Act, or for DWSRF projects, the Consolidated Appropriations Act, 2017, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conforming under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. Sub recipients may obtain wage determinations from the U.S. Department of Labor’s web site, www.dol.gov.

(ii) The sub recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
BG) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub recipient(s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the sub recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The sub recipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the
costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee’s social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at https://www.dol.gov/whd/forms/index.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the sub recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub recipient(s).

(B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
(4) Apprentices and trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman’s hourly rate) specified in the contractor’s or subcontractor’s registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice’s level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee’s level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontractors. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and sub recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor’s firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).


(a) Contract Work Hours and Safety Standards Act. The sub recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of $25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub recipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work
Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section. (b) In addition to the clauses contained in Item 3, above, in any contract subject only to the

Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payroll and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the USEPA and the Department of Labor and the State Water Board, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The sub recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(3), all interviews must be conducted in confidence. The sub recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The sub recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB.

Sub recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The sub recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The sub recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the sub recipient should spot check payroll data within two weeks of each contractor or subcontractor’s submission of its initial payroll data and two weeks prior to the completion date of the contract or subcontract. Sub recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the sub recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The sub recipient shall periodically review contractors’ and subcontractors’ use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S. Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/whd/americas2.htm.
II. Requirements For Sub recipients That Are Not Governmental Entities: If a sub recipient has questions regarding when Davis-Bacon (DB) applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient for guidance. The recipient or sub recipient may also obtain additional guidance from DOL’s web site at http://www.dol.gov/whd/. Under these terms and conditions, the sub recipient must submit its proposed DB wage determinations to the State Water Board for approval prior to including the wage determination in any solicitation, contract task orders, work assignments, or similar instruments to existing contractors.

1. Applicability of the Davis-Bacon (DB) prevailing wage requirements.

DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a sub recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub recipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Sub recipients must obtain proposed wage determinations for specific localities at www.wdol.gov. After the Sub recipient obtains its proposed wage determination, it must submit the wage determination to the State Water Board at DavisBacon@waterboards.ca.gov or phone (916) 327-7323 for approval prior to inserting the wage determination into a solicitation, contract or issuing task orders, work assignments or similar instruments to existing contractors (ordering instruments unless subsequently directed otherwise by the State recipient Award Official.)

(b) Sub recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the sub recipient shall monitor www.wdol.gov on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The sub recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub recipient.

(ii) If the sub recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub recipient shall monitor www.wdol.gov on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(c) If the sub recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub recipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(d) Sub recipients shall review all contracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(e) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub recipient’s contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL’s wage determination retroactive to the beginning of the contract or
ordering instrument by change order. The sub recipient’s contractor must be compensated for any increases in wages resulting from the use of DOL’s revised wage determination.


(a) The Recipient shall ensure that the sub recipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in 29 CFR § 5.1 or, for CWSRF projects, the FY 2015 Water Resource Reform and Development Act, or for DWSRF projects, the FY 2017 Consolidated and Continuing Appropriations Act, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3) ), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Sub recipients may obtain wage determinations from the U.S. Department of Labor’s web site, www.dol.gov.

(ii)(A) The sub recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub recipient(s) to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the sub recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request, and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(iii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The sub recipient(s) shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the
costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee’s social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the sub recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub recipient(s).

(B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5(a)(3)(i) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5(a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
(4) Apprentices and trainees—

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman’s hourly rate) specified in the contractor's or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Sub recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor’s firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).


(a) Contract Work Hours and Safety Standards Act. The sub recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section. In the sum of $25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub recipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and
Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(3) through (4) of this section.

(c) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payroll and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the USEPA and the Department of Labor and the State Water Board, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The sub recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(3), all interviews must be conducted in confidence. The sub recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The sub recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Sub recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All Interviews shall be conducted in confidence.

(c) The sub recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The sub recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable the sub recipient should conduct payroll data checks within two weeks of each contractor or subcontractor’s submission of its initial payroll data and two weeks prior to the completion date of the contract or subcontract. Sub recipients shall conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the sub recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The sub recipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S. Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionately numbers of laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOI Wage and Hour District Office listed at http://www.dol.gov/whd/america2.htm.
13. **PREVAILING WAGES**

13.1. **General:** Consultant shall pay to any worker on the job for whom prevailing wages have been established an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character in the locality in which the work is performed and (2) legal holiday and overtime work in said locality. The per diem wages shall be an amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and Sonoma Water to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this Agreement. Consultant shall also cause a copy of this determination of the prevailing rate of per diem wages to be posted at each site work is being performed, in addition to all other job site notices prescribed by regulation. Copies of the prevailing wage rate of per diem wages are on file at Sonoma Water and will be made available to any person upon request.

13.2. **Subcontracts:** Consultant shall insert in every subcontract or other arrangement which Consultant may make for performance of such work or labor on work provided for in the Agreement, provision that Subcontractor shall pay persons performing labor or rendering service under subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the Labor Code. Pursuant to Labor Code section 1775(b)(1), Consultant shall provide to each Subcontractor a copy of sections 1771, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code.

13.3. **Compliance Monitoring and Registration:** This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Consultant shall furnish and shall require all subcontractors to furnish the records specified in Labor Code section 1776 (e.g. electronic certified payroll records) directly to the Labor Commissioner in a format prescribed by the Labor Commissioner at least monthly (Labor Code 1771.4 (a)(3)). Consultant and all subcontractors performing work that requires payment of prevailing wages shall be registered and qualified to perform public work pursuant to Labor Code section 1725.5 as a condition to engage in the performance of any services under this Agreement.

13.4. **Compliance with Law:** In addition to the above, Consultant stipulates that it shall comply with all applicable wage and hour laws, including without limitation Labor Code sections 1725.5, 1775, 1776, 1777.5, 1813, and 1815 and California Code of Regulations, Title 8, section 16000, et seq.
Supplier Portal Registration Guide

The County of Sonoma posts new bidding opportunities on its Supplier Portal. Suppliers must register in order to login to the Supplier Portal and view or bid on solicitations.

The Supplier Portal allows Suppliers to:

- Access solicitation information 24/7 (excluding maintenance periods)
- Manage Company and User information in a self-service account
- Manage NIGP commodity/product codes
- Receive emailed notifications regarding new bidding opportunities
- View and bid on solicitations
- Review purchase orders, invoices, and payments

Organizations which have not done business with the County should register as a Bidder. Organizations which have received payment from the County for goods and/or services should register as a Supplier.

To register as a Bidder:

- Have your Taxpayer ID number or SSN on hand.
- Navigate to the Supplier Portal. We recommend you open the Bidder Registration Instructions in a new window, or print to use during registration.
- Click "Register as a Sourcing Bidder" and follow the Bidder Registration Instructions. Be sure to review and choose appropriate commodity category codes.

To register as a Supplier:

- Have your Taxpayer ID or Social Security Number on hand, along with your current Supplier ID number. If your Supplier ID number is not available, please email the Supplier Desk.
- Navigate to the Supplier Portal. We recommend you open the Supplier Registration Instructions in a new window, or print to use during registration.
- Click "Create New User Accounts" and follow the Supplier Registration Instructions. Be sure to review and select appropriate commodity category codes.

If you experience technical issues during registration, email the Supplier Desk for prompt assistance. Please include a screenshot of the issue if possible.
SAMPLE Agreement for Russian River County Sanitation District
Headworks, Lift Stations, and Force Main Project

This agreement (“Agreement”) is by and between Russian River County Sanitation District
(“District”) and TBD, (“Consultant”). The Effective Date of this Agreement is the date the
Agreement is last signed by the parties to the Agreement, unless otherwise specified in
Paragraph 5.1.

RECITALS

A. Sonoma County Water Agency operates District under contract with District. References to
District employees are understood to be Sonoma County Water Agency employees acting
on behalf of District.

B. District has applied for a planning grant from the State Water Resources Control Board’s
Small Community Wastewater program. Some of these funds will pay for this work.

In consideration of the foregoing recitals and the mutual covenants contained herein, the
parties hereto agree as follows:

AGREEMENT

1. RECITALS

1.1. The above recitals are true and correct.

2. LIST OF EXHIBITS

2.1. The following exhibits are attached hereto and incorporated herein:

a. Exhibit A: Scope of Work
b. Exhibit B: Schedule of Costs
c. Exhibit C: Estimated Budget for Scope of Work
d. Exhibit D: Grant Documents
e. Exhibit E: Map
f. Exhibit F: Insurance Requirements

3. SCOPE OF SERVICES

3.1. Consultant’s Specified Services: Consultant shall perform the services described
in Exhibit A (Scope of Work), within the times or by the dates provided for in
Exhibit A and pursuant to Article 9 (Prosecution of Work). In the event of a
conflict between the body of this Agreement and Exhibit A, the provisions in the body of this Agreement shall control.

3.2. Cooperation with District: Consultant shall cooperate with District in the performance of all work hereunder. Consultant shall coordinate the work with District’s Project Manager. Contact information and mailing addresses: TBD

3.3. Performance Standard and Standard of Care: Consultant hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with the standards of a reasonable professional having specialized knowledge and expertise in the services provided under this Agreement and in accordance with all applicable federal, state and local laws, it being understood that acceptance of Consultant’s work by District shall not operate as a waiver or release. District has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. If District determines that any of Consultant’s work is not in accordance with such level of competency and standard of care, District, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with District to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 6 (Termination); or (d) pursue any and all other remedies at law or in equity.

3.4. Assigned Personnel:
   a. Consultant shall assign only competent personnel to perform work hereunder. In the event that at any time District, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from District.
   b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by District to be key personnel whose services were a material inducement to District to enter into this Agreement, and without whose services District would not have entered into this Agreement. Consultant shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of District.
   c. With respect to performance under this Agreement, Consultant shall employ the following key personnel: TBD
   d. In the event that any of Consultant’s personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness, or other factors outside of Consultant’s control, Consultant shall be responsible for timely provision of adequately qualified replacements.
4. **PAYMENT**

4.1. *Total Costs:* TBD

4.2. *Method of Payment:* TBD

4.3. *Invoices:* TBD

4.4. *Cost Tracking:* TBD

4.5. *Timing of Payments:* Unless otherwise noted in this Agreement, payments shall be made within the normal course of District business after presentation of an invoice in a form approved by District for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by District.

4.6. *Taxes Withheld by District:*
   
   a. Pursuant to California Revenue and Taxation Code (R&TC) section 18662, the District shall withhold seven percent of the income paid to Consultant for services performed within the State of California under this Agreement, for payment and reporting to the California Franchise Tax Board, if Consultant does not qualify as: (1) a corporation with its principal place of business in California, (2) an LLC or Partnership with a permanent place of business in California, (3) a corporation/LLC or Partnership qualified to do business in California by the Secretary of State, or (4) an individual with a permanent residence in the State of California.
   
   b. If Consultant does not qualify, as described in Paragraph 4.6.a, District requires that a completed and signed Form 587 be provided by Consultant in order for payments to be made. If Consultant is qualified, as described in Paragraph 4.6.a, then District requires a completed Form 590. Forms 587 and 590 remain valid for the duration of the Agreement provided there is no material change in facts. By signing either form, Consultant agrees to promptly notify District of any changes in the facts. Forms should be sent to District pursuant to Article 16 (Method and Place of Giving Notice, Submitting Bills, and Making Payments) of this Agreement. To reduce the amount withheld, Consultant has the option to provide District with either a full or partial waiver from the State of California.

4.7. *Federal Funds:*
   
   a. All or part of this Agreement will be paid with federal awards. As a pass-through entity, the District is required to provide certain information regarding federal award(s) to Consultant as a sub recipient. In signing this Agreement, Consultant acknowledges receipt of the following information regarding federal award(s) that will be used to pay this Agreement: TBD
   
   b. As a sub recipient of federal awards, Consultant is subject to the provisions of U.S. Office of Management and Budget Circular A-133, *Audits of states,*
Local Governments, and Non-Profit Organizations (hereinafter “OMB Circular A-133”). In signing this Agreement, Consultant acknowledges that it understands and will comply with the provisions of OMB Circular A-133. One provision of OMB circular A-133 requires a sub recipient that expends $500,000 in federal awards during its fiscal year to have an audit performed in accordance with OMB Circular A-133. If such an audit is required, Consultant agrees to provide District with a copy of the audit report within nine months of Consultant’s fiscal year end. Questions regarding OMB Circular A-133 can be directed to the Sonoma County Auditor-controller Treasurer-Tax Collector’s Office - General Accounting Division.

c. Consultant is informed and aware that this Agreement is funded by a grant from TBD (award number TBD), which grant is conditioned upon various terms that apply to Consultant. Consultant has reviewed the grant award documents attached hereto as Exhibit D (Grant Documents) and hereby agrees to comply with them to the extent they apply to a subrecipient.

5. **TERM OF AGREEMENT AND COMMENCEMENT OF WORK**

5.1. **Term of Agreement:**
   a. This Agreement shall expire on TBD, unless terminated earlier in accordance with the provisions of Article 6 (Termination).
   b. District shall have two options to extend this Agreement for a period of one year each by providing written notice to Consultant thirty days in advance of the expiration date noted in this Article and of the first extension option.

5.2. **Commencement of Work:** Consultant is authorized to proceed immediately with the performance of this Agreement upon the Effective Date of this Agreement.

6. **TERMINATION**

6.1. **Authority to Terminate:** District’s right to terminate may be exercised by Sonoma County Water Agency’s General Manager.

6.2. **Termination Without Cause:** Notwithstanding any other provision of this Agreement, at any time and without cause, District shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Consultant.

6.3. **Termination for Cause:** Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, District may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

6.4. **Delivery of Work Product and Final Payment Upon Termination:** In the event of termination, Consultant, within 14 days following the date of termination, shall
deliver to District all reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by Consultant or Consultant’s subcontractors, consultants, and other agents in connection with this Agreement subject to Paragraph 12.10 and shall submit to District an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

6.5. **Payment Upon Termination:** Upon termination of this Agreement by District, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and reimbursable expenses properly incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total payment; provided, however, that if services are to be paid on a per-hour or per-day basis, then Consultant shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to termination multiplied by the applicable hourly or daily rate; and further provided, however, that if District terminates the Agreement for cause pursuant to Paragraph 6.3, District shall deduct from such amounts the amount of damage, if any, sustained by District by virtue of the breach of the Agreement by Consultant.

6.6. **Change in Funding:** Consultant understands and agrees that District shall have the right to terminate this Agreement immediately upon written notice to Consultant in the event that (1) any state or federal agency or other funder reduces, withholds or terminates funding which the District anticipated using to pay Consultant for services provided under this Agreement or (2) District has exhausted all funds legally available for payments due under this Agreement.

7. **INDEMNIFICATION**

7.1. Consultant agrees to accept responsibility for loss or damage to any person or entity, including Sonoma County Water Agency and Russian River County Sanitation District, and to defend, indemnify, hold harmless, and release Sonoma County Water Agency and Russian River County Sanitation District, their officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant or its agents, employees, contractors, subcontractors, or invitees hereunder, whether or not there is concurrent or contributory negligence on Sonoma County Water Agency or Russian River County Sanitation District’s part, but, to the extent required by law, excluding liability due to Sonoma County Water Agency or Russian River County Sanitation District’s conduct. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Consultant or its agents under workers’ compensation acts, disability benefits acts, or other employee benefit acts.
8. **INSURANCE**

8.1. With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit F (Insurance Requirements).

9. **PROSECUTION OF WORK**

9.1. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Consultant’s performance of this Agreement shall be extended by a number of days equal to the number of days Consultant has been delayed.

10. **EXTRA OR CHANGED WORK**

10.1. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Changes to lengthen time schedules or make minor modifications to the scope of work, which do not increase the amount paid under the Agreement, may be executed by Sonoma County Water Agency's General Manager in a form approved by County Counsel. The parties expressly recognize that District personnel are without authorization to order all other extra or changed work or waive Agreement requirements. Failure of Consultant to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of District.

11. **CONTENT ONLINE ACCESSIBILITY**

11.1. **Accessibility:** District policy requires that all documents that may be published to the Web meet accessibility standards to the greatest extent possible, and utilizing available existing technologies.

11.2. **Standards:** All consultants responsible for preparing content intended for use or publication on a District managed or District funded web site must comply with applicable federal accessibility standards established by 36 C.F.R. section 1194, pursuant to section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. section 794(d)), and District’s Web Site Accessibility Policy located at [http://sonomacounty.ca.gov/Services/Web-Standards-and-Guidelines/](http://sonomacounty.ca.gov/Services/Web-Standards-and-Guidelines/).

11.3. **Certification:** With each final receivable intended for public distribution (report, presentations posted to the Internet, public outreach materials), Consultant shall
include a descriptive summary describing how all deliverable documents were assessed for accessibility (e.g., Microsoft Word accessibility check; Adobe Acrobat accessibility check, or other commonly accepted compliance check).

11.4. **Alternate Format:** When it is strictly impossible due to the unavailability of technologies required to produce an accessible document, Consultant shall identify the anticipated accessibility deficiency prior to commencement of any work to produce such deliverables. Consultant agrees to cooperate with District staff in the development of alternate document formats to maximize the facilitative features of the impacted document(s); e.g., embedding the document with alt-tags that describe complex data/tables.

11.5. **Noncompliant Materials; Obligation to Cure:** Remediation of any materials that do not comply with District’s Web Site Accessibility Policy shall be the responsibility of Consultant. If District, in its sole and absolute discretion, determines that any deliverable intended for use or publication on any District managed or District funded Web site does not comply with District Accessibility Standards, District will promptly inform Consultant in writing. Upon such notice, Consultant shall, without charge to District, repair or replace the non-compliant materials within such period of time as specified by District in writing. If the required repair or replacement is not completed within the time specified, District shall have the right to do any or all of the following, without prejudice to District’s right to pursue any and all other remedies at law or in equity:

- a. Cancel any delivery or task order
- b. Terminate this Agreement pursuant to the provisions of Article 6 (Termination); and/or
- c. In the case of custom Electronic and Information Technology (EIT) developed by Consultant for District, District may have any necessary changes or repairs performed by itself or by another contractor. In such event, Consultant shall be liable for all expenses incurred by District in connection with such changes or repairs.

11.6. **District’s Rights Reserved:** Notwithstanding the foregoing, District may accept deliverables that are not strictly compliant with District Accessibility Standards if District, in its sole and absolute discretion, determines that acceptance of such products or services is in District’s best interest.

12. **REPRESENTATIONS OF CONSULTANT**

12.1. **Status of Consultant:** The parties intend that Consultant, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of District and is not entitled to participate in any pension plan, worker’s compensation plan, insurance, bonus, or similar benefits District provides its employees. In the event District exercises its right to terminate this Agreement pursuant to Article 6 (Termination), Consultant
expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

12.2. **No Suspension or Debarment:** Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration.

12.3. **Taxes:** Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold District harmless from any liability which it may incur to the United States or to the State of California or to any other public entity as a consequence of Consultant’s failure to pay, when due, all such taxes and obligations. In case District is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish District with proof of payment of taxes on these earnings.

12.4. **Records Maintenance:** Consultant shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to District for inspection at any reasonable time. Consultant shall maintain such records for a period of four (4) years following completion of work hereunder.

12.5. **Conflict of Interest:** Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if required by law or requested to do so by District, Consultant shall submit a completed Fair Political Practices Commission Statement of Economic Interests (Form 700) with District within 30 calendar days after the Effective Date of this Agreement and each year thereafter during the term of this Agreement, or as required by state law.

12.6. **Statutory Compliance/Living Wage Ordinance:** Consultant agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Consultant expressly acknowledges and
agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

12.7. **Nondiscrimination:** Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

12.8. **Drug-Free Workplace Certification (Certification of Compliance):** By signing this Agreement, Consultant, its contractors or subcontractors hereby certify, under penalty of perjury under the laws of State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code §8350 et seq.) and have or will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees, contractors, and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors, or subcontractors for violations, as required by Government Code section 8355(a)(1).

b. Establish a Drug-Free Awareness Program, as required by Government Code section 8355(a)(2) to inform employees, contractors, or subcontractors about all of the following:
   i. The dangers of drug abuse in the workplace,
   ii. Consultant’s policy of maintaining a drug-free workplace,
   iii. Any available counseling, rehabilitation, and employee assistance programs, and
   iv. Penalties that may be imposed upon employees, contractors, and subcontractors for drug abuse violations.

c. Provide, as required by Government Code section 8355(a)(3), that every employee, contractor, and/or subcontractor who works under this Agreement:
   i. Will receive a copy of Consultant’s drug-free policy statement, and
   ii. Will agree to abide by terms of Consultant’s condition of employment, contract or subcontract.

12.9. **Assignment of Rights:** Consultant assigns to District all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Consultant in connection with this Agreement. Consultant agrees to take
such actions as are necessary to protect the rights assigned to District in this Agreement, and to refrain from taking any action which would impair those rights. Consultant’s responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as District may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of District. Consultant shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of District.

12.10. Ownership and Disclosure of Work Product: All reports, original drawings, graphics, plans, studies, and other data or documents (“documents”), in whatever form or format, assembled or prepared by Consultant or Consultant’s subcontractors, consultants, and other agents in connection with this Agreement shall be the property of District. District shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly deliver to District all such documents, which have not already been provided to District in such form or format as District deems appropriate. Such documents shall be and will remain the property of District without restriction or limitation. Consultant may retain copies of the above described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of District.

12.11. District Liability: District is a separate legal entity from Sonoma County Water Agency, operated under contract by Sonoma County Water Agency. To the extent any work under this Agreement relates to District activities, Consultant shall be paid exclusively from District funds. Consultant agrees that it shall make no claim for compensation for Consultant’s services against Sonoma County Water Agency funds and expressly waives any right to be compensated from other funds available to Sonoma County Water Agency.

13. PREVAILING WAGES

13.1. General: Consultant shall pay to any worker on the job for whom prevailing wages have been established an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character in the locality in which the work is performed and (2) legal holiday and overtime work in said locality. The per diem wages shall be an amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and District to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this Agreement. Consultant shall also cause a copy of this determination of the prevailing rate of per diem wages to be posted at each site work is being performed, in addition to all other job site
notices prescribed by regulation. Copies of the prevailing wage rate of per diem wages are on file at District and will be made available to any person upon request.

13.2. **Subcontracts**: Consultant shall insert in every subcontract or other arrangement which Consultant may make for performance of such work or labor on work provided for in the Agreement, provision that Subcontractor shall pay persons performing labor or rendering service under subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the Labor Code. Pursuant to Labor Code section 1775(b)(1), Consultant shall provide to each Subcontractor a copy of sections 1771, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code.

13.3. **Compliance Monitoring and Registration**: This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Consultant shall furnish and shall require all subcontractors to furnish the records specified in Labor Code section 1776 (e.g. electronic certified payroll records) directly to the Labor Commissioner in a format prescribed by the Labor Commissioner at least monthly (Labor Code 1771.4 (a)(3)). Consultant and all subcontractors performing work that requires payment of prevailing wages shall be registered and qualified to perform public work pursuant to Labor Code section 1725.5 as a condition to engage in the performance of any services under this Agreement.

13.4. **Compliance with Law**: In addition to the above, Consultant stipulates that it shall comply with all applicable wage and hour laws, including without limitation Labor Code sections 1725.5, 1775, 1776, 1777.5, 1813, and 1815 and California Code of Regulations, Title 8, section 16000, et seq.

14. **DEMAND FOR ASSURANCE**

14.1. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. “Commercially reasonable” includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the
15. **ASSIGNMENT AND DELEGATION**

15.1. **Consent:** Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

15.2. **Subcontracts:** Notwithstanding the foregoing, Consultant may enter into subcontracts with the subconsultants specifically identified herein. If no subconsultants are listed, then no subconsultants will be utilized in the performance of the work specified in this Agreement. Approved subconsultants are as follows: TBD

15.3. **Change of Subcontractors or Subconsultants:** If, after execution of the Agreement, parties agree that subconsultants not listed in Paragraph 15.2 will be utilized, Consultant may enter into subcontracts with subconsultants to perform other specific duties pursuant to the provisions of this Paragraph 15.3. The following provisions apply to any subcontract entered into by Consultant other than those listed in Paragraph 15.2:

a. Prior to entering into any contract with subconsultant, Consultant shall obtain District approval of subconsultant.

b. All agreements with subconsultants shall (a) contain indemnity requirements in favor of District in substantially the same form as that contained in Article 7 (Indemnification), (b) contain language that the subconsultant may be terminated with or without cause upon reasonable written notice, and (c) prohibit the assignment or delegation of work under the agreement to any third party.

15.4. **Summary of Subconsultants’ Work:** Consultant shall provide District with a summary of work performed by subconsultants with each invoice submitted under Paragraph 4.3. Such summary shall identify the individuals performing work on behalf of subconsultants and the total amount paid to subconsultant, broken down by the tasks listed in the Scope of Work.

16. **METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS, AND MAKING PAYMENTS**

16.1. **Method of Delivery:** All notices, bills, and payments shall be made in writing and shall be given by personal delivery, U.S. Mail, courier service, or electronic means. Notices, bills, and payments shall be addressed as specified in Paragraph 3.2.
16.2. **Receipt:** When a notice, bill, or payment is given by a generally recognized overnight courier service, the notice, bill, or payment shall be deemed received on the next business day. When a copy of a notice, bill, or payment is sent by electronic means, the notice, bill, or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill, or payment is deposited in the U.S. mail and postmarked on the date of the electronic transmission (for a payment, on or before the due date), (2) the sender has a written confirmation of the electronic transmission, and (3) the electronic transmission is transmitted before 5 p.m. (recipient’s time). In all other instances, notices, bills, and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this Article 16.

17. **MISCELLANEOUS PROVISIONS**

17.1. **No Bottled Water:** In accordance with District Board of Directors Resolution No. 09-0920, dated September 29, 2009, no District funding shall be used to purchase single-serving, disposable water bottles for use in District facilities or at District-sponsored events. This restriction shall not apply when potable water is not available.

17.2. **No Waiver of Breach:** The waiver by District of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.

17.3. **Construction:** To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Consultant and District acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Consultant and District acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

17.4. **Consent:** Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

17.5. **No Third-Party Beneficiaries:** Except as provided in Article 7 (Indemnification), nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.
17.6. *Applicable Law and Forum:* This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or in the forum nearest to the City of Santa Rosa, in the County of Sonoma.

17.7. *Captions:* The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

17.8. *Merger:* This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure section 1856. Each Party acknowledges that, in entering into this Agreement, it has not relied on any representation or undertaking, whether oral or in writing, other than those which are expressly set forth in this Agreement. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

17.9. *Survival of Terms:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

17.10. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date last signed by the parties to the Agreement.

Signature block TBD
Exhibit A

Scope of Work

**TBD**

1. **TASKS**

1.1. Task 1: [Task Title]
   a. [task description]
   b.
   c.

   Deliverable:
   Due Date:

1.2. Task 2: [Task Title]
   a. [task description]
   b.
   c.

   Deliverable:
   Due Date:

1.3. Task 3: [Task Title]
   a. [task description]
   b.
   c.

   Deliverable:
   Due Date:

2. **DELIVERABLES**

2.1. Submit one electronic copy in PDF format (emailed, on CD, or via internet) of each final deliverable to District.

2.2. Comply with requirements of Article 11 (Content Online Accessibility).
Exhibit B

Schedule of Costs

TBD
Exhibit C

Estimated Budget for Scope of Work

TBD
Exhibit D

Grant Documents

**NOTE**
These procedures are required only if you intend to employ subcontractors to perform work under the agreement.

1. INTRODUCTION

A. Sonoma Water intends to seek reimbursement of its costs incurred in connection with this project from the Clean Water State Revolving Fund (CWSRF), which requires outreach to minority-owned, women-owned, and small businesses, both by Sonoma Water and any consultants, contractors, or subcontractors working on this project.

B. If Consultant will employ subconsultants or subcontractors for any work on the proposed project, Consultant must comply with the DBE procedures herein prior to submitting a proposal. If Consultant will not use subs, this Exhibit does not apply.

C. The goal of this document is to notify Consultant of compliance measures required under federal regulations. However, this document shall not operate to relieve Consultant of its duty to become fully informed regarding applicable state and federal regulations.

D. Reporting of outreach efforts for federal funding requirements shall be done on the forms included in this document.

E. In this document and on related forms, the acronym DBE is described as follows:

   DBE  
   Disadvantaged Business Enterprise:
   
   For the purposes of this Agreement, a DBE means a business enterprise that is owned and controlled by one or more socially and economically disadvantaged persons as defined by the Small Business Administration, Environmental Protection Agency, or US Department of Transportation.

F. The following acronyms are sometimes used in this document and on related forms to describe federal agencies that provide resources that should be used to conduct outreach efforts described in Section 2 (Outreach Requirements):

1. Small Business Administration (SBA)
2. Minority Business Development Agency (MBDA)

G. To qualify as a DBE, a business must be certified by the U.S. EPA, U.S. Small Business Association, U.S. Department of Transportation, or by another state, local, tribal, or private entity whose certification criteria match those maintained by these federal agencies.
2. OUTREACH REQUIREMENTS
   
   **A. "GOOD FAITH" EFFORT PROCESS**

   Any public or private entity receiving federal funds must demonstrate that efforts were made to attract DBEs. The process to attract DBEs is referred to as the "Good Faith" effort. This effort requires the recipient, Consultant and any subcontractors to take the steps listed below to assure that DBEs are used whenever possible as sources of supplies, construction, equipment, or services. If a Consultant fails to take the steps outlined below shall cause the proposal to be rejected as non-responsive and/or be deemed a material breach of the contract.

   **STEP 1: Include qualified DBE enterprises on solicitation lists.**

   Consultant shall ensure DBE enterprises are made aware of contracting opportunities to the fullest extent possible through outreach and recruitment activities. For example, publish notices in trade papers or newspapers and advertise on the websites of the following agencies: SBA and MBDA. Additional online resources are listed in Paragraph 7, below.

   **STEP 2: Assure that DBE enterprises are solicited whenever they are potential sources.**

   Solicitation should be as broad as possible and should occur throughout the life of the Project whenever procuring supplies, construction, or services. (See Step 5, below, for solicitation-related requirements.)

   **STEP 3: Divide the total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBE enterprises.**

   Consider in the scope of work whether portions of the work could be feasibly procured with DBE enterprises. This will include dividing total requirements into smaller tasks or quantities to permit maximum participation by DBEs.

   **STEP 4: Establish delivery schedules, where the requirements of the work permit, which will encourage participation by DBE enterprises.**

   Make information on opportunities available to DBE enterprises well in advance, arrange time frames for contracts and establish delivery schedules in a way that encourages and facilitates participation by DBEs.

   **STEP 5: In soliciting qualified firms, use the services of the U.S. Small Business Administration (SBA) and the Minority Business Development Agency (MBDA).**

   These agencies offer several services that are provided at no cost, including Internet access to databases of DBE enterprises and the ability to post an advertisement seeking qualified DBE firms. Consultant must provide evidence (documentation) to Water Agency that the services of SBA and MBDA were used. See Table 1 below for website addresses.
TABLE 1. ACCESSING RESOURCES AND PRODUCING DOCUMENTATION

<table>
<thead>
<tr>
<th>Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Small Business Administration (SBA)</strong></td>
</tr>
<tr>
<td>A. Consultant can search and advertise for DBE services and supplies at the SBA website. Documentation, including negative reports should be provided to show proof of outreach.</td>
</tr>
<tr>
<td>- To perform searches for DBE firms, go to:</td>
</tr>
<tr>
<td>- <a href="http://web.sba.gov/pro-net/search/dsp_dsps.cfm">http://web.sba.gov/pro-net/search/dsp_dsps.cfm</a></td>
</tr>
<tr>
<td>- To document searches Consultant can:</td>
</tr>
<tr>
<td>- Print Adobe PDF copy of search results from the website, showing website address, description of work, search criteria, and date of search. Use reasonably broad search criteria for geographic boundaries and work descriptions to maximize the probability of generating a list of qualified DBEs. Consultant should try to make an effort to seek DBE firms working in the same geographic area in which Consultant seeks subcontractors/services for a given solicitation.</td>
</tr>
<tr>
<td>- To post opportunities for DBE firms (registration required) go to:</td>
</tr>
<tr>
<td>- <a href="http://web.sba.gov/subnet">http://web.sba.gov/subnet</a></td>
</tr>
<tr>
<td>- To document postings:</td>
</tr>
<tr>
<td>- Print Adobe PDF copy of posting from the website, showing website address and date of post.</td>
</tr>
<tr>
<td>B. Consultant should make an effort to send each entity on the list of qualified DBEs from the search results above a solicitation. Documentation, including negative reports should be provided:</td>
</tr>
<tr>
<td>- Evidence that qualified DBEs from the search results were solicited should be provided. Evidence may be in the form of emails, faxes, letters, or phone logs.</td>
</tr>
</tbody>
</table>

| **2. U.S. Department of Commerce Minority Business Development Agency (MBDA):** |
| A. Consultant can email opportunities to the MBDA Business Development Office and they will post it/distribute it to area businesses in the identified trades. Include NAICS codes in the email. Emails should go to: |
| SiewYee Lee |
| slee@sanjoseembdcenter.com |
| (408) 998-8058 Ext: 139 |
|   - Document this effort by saving a copy of the email to MBDA. |
3. DOCUMENTATION OF OUTREACH EFFORTS
   A. Water Agency requires evidence that Consultant has followed the affirmative steps above.
   B. Prior to submitting your response or proposal to Water Agency, use Form 1 - DBE Checklist at the end of
      this document to document your DBE enterprises solicitation efforts. Read it carefully, follow its
      directions, and attach backup documentation described in Table 1 above.
   C. In addition to the foregoing documentation requirements, Consultant shall provide semiannual reports
      on DBE enterprises utilization using a form provided by Sonoma Water

4. ADMINISTRATIVE REQUIREMENTS
   A. Consultant shall pay its subcontractors/suppliers/vendors for satisfactory performance no more than 30
      days from the Consultant’s receipt of payment from Sonoma Water; and
   B. If a DBE subcontractor/supplier/vendor fails to complete work under the subcontract for any reason,
      Consultant shall undertake the outreach steps described in Section 2, above, if soliciting a replacement
      subcontractor/supplier/vendor.

5. OTHER USEFUL RESOURCES
   The web sites in the table below offer resources for expanding searches for eligible DBEs beyond those
   required sources listed above.

<table>
<thead>
<tr>
<th>Other Useful DBE Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>California Public Utilities Commission (CPUC)</td>
</tr>
<tr>
<td>CPUC maintains a database of DBE-owned business enterprises and serves to inform the public.</td>
</tr>
<tr>
<td><a href="http://www.cpuc.ca.gov/puc/supplierdiversity">http://www.cpuc.ca.gov/puc/supplierdiversity</a></td>
</tr>
<tr>
<td>California Department of Transportation (Caltrans)</td>
</tr>
<tr>
<td>Based on the federal Disadvantaged Business Enterprises (DBE) program, Caltrans maintains a</td>
</tr>
<tr>
<td>database and provides directories of minority and woman-owned firms.</td>
</tr>
<tr>
<td>Always print the search results page(s) and keep them with the rest of the documentation.</td>
</tr>
<tr>
<td><a href="http://www.dot.ca.gov/hq/bep">www.dot.ca.gov/hq/bep</a></td>
</tr>
<tr>
<td>North American Industry Classification System (NAICS Code Search Tools)</td>
</tr>
<tr>
<td>Search by keyword or SIC code to get NAICS code</td>
</tr>
<tr>
<td><a href="http://www.naics.com/search.htm">http://www.naics.com/search.htm</a></td>
</tr>
<tr>
<td>U.S. EPA Office of Small, Disadvantaged Business Utilization (OSDBU)</td>
</tr>
<tr>
<td>OSDBU’s mission includes “fostering opportunities for partnerships, contracts, sub-agreements, and</td>
</tr>
<tr>
<td>grants for small and socioeconomically disadvantaged concerns.” One of the resources to assist prime</td>
</tr>
<tr>
<td>contractors is a listing of small and disadvantaged businesses (a vendor profile system) registered with</td>
</tr>
<tr>
<td>OSDBU.</td>
</tr>
<tr>
<td><a href="http://cfpub.epa.gov/sbups/">http://cfpub.epa.gov/sbups/</a></td>
</tr>
</tbody>
</table>
FORM 1 DBE CHECKLIST

Purpose and Use: This form is to be completed by Consultant and submitted with its proposal if subconsultants will be used on the Project. Complete this checklist, answer all questions, and provide a written explanation for "No" answers. Sonoma Water uses this form to evaluate DBE outreach efforts undertaken by Consultant.

<table>
<thead>
<tr>
<th>DBE Checklist</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Did you solicit proposals or quotes from subcontractors/suppliers/vendors for this project?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Did you break down the project, where economically feasible, into smaller tasks, quantities, or components to permit maximum participation by DBE enterprises?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 Did project components have reasonable delivery schedules so as to encourage maximum participation of DBEs?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 Did you provide sufficient time to facilitate the submission of DBE proposals?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 Did you use the services of the Small Business Administration (SBA) and the Minority Business Development Agency of the US Department of Commerce (MBDA)?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6 Did you identify DBEs that may be potential sources of supplies, construction, and services?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7 If the answer to Question 6 (above) was “yes,” did you solicit proposals from those DBEs?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Supporting Documentation:

As specified in Exhibit A, Disadvantaged Business Enterprises (DBE) Procedures, please attach supporting documentation of outreach efforts, which may include, but is not limited to, the following: 1) copies of advertisement postings in newspapers, trade journals, or websites, 2) evidence of the use of the services of the Small Business Administration (SBA) and the Minority Business Development Agency of the US Department of Commerce (MBDA), such as search results showing the website address where search was performed, description of work, search criteria, and the date of search, and 3) evidence that qualified DBEs identified by Consultant were solicited, such as records of communications between Consultant and identified DBEs.

CERTIFICATION

I certify that I am duly authorized to bind the Consultant to this certification, that I have reviewed and understand the requirements described in Disadvantaged Business Enterprises (DBE) Procedures and that I have taken the steps required therein. I further understand and certify that Water Agency may review the records described above prior to Award of Contract and that failure to establish compliance to Water Agency’s satisfaction may result in rejection of the Proposal.

SIGNATURE: ____________________________

TITLE: ________________________________

DATE EXECUTED: _______________________
A. State Cross-Cutters.

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

1. 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.

2. Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.


4. 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.

5. Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.


7. Urban Water Demand Management requirements, including the requirements of Section 10609.56 of the Water Code.


9. Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.


B. Federal Requirements and Cross-Cutters for SRF Funding.

The Recipient acknowledges, warrants compliance with, and covenants to continuing compliance with the following federal terms and conditions for the Useful Life of the Project:

1. Unless the Recipient has obtained a waiver from U.S. EPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient shall not purchase “iron and steel products” produced outside of the United States on this Project. Unless the Recipient has obtained a waiver from U.S. EPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient hereby certifies that all “iron and steel products” used in the Project were or will be produced in the United States. For purposes of this section, the term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves; structural steel, reinforced precast concrete, and construction materials. “Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

November 6, 2018 (9-5)
ii. The Recipient must include in full the Wage Rate Requirements (Davis-Bacon) language set forth below in all construction contracts and subcontracts.

iii. The Recipient must comply with the State Water Board’s signage requirements.

iv. The Recipient shall notify the State Water Board and the U.S. EPA contact of public or media events publicizing the accomplishment of significant events related to this Project and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days’ notice.

v. The Recipient shall comply with applicable EPA general terms and conditions found at http://www.epa.gov/opd , including but not limited to the following:

vi. No Recipient may receive funding under this Agreement unless it has provided its DUNS number to the State Water Board.

vii. The Recipient shall report the names and total compensation of each of its five most highly compensated executives for the preceding completed fiscal year.

viii. 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.

ix. To the extent applicable, the Recipient shall disclose to the State Water Board any potential conflict of interest consistent with U.S. EPA’s Final Financial Assistance Conflict of Interest Policy at https://www.epa.gov/grants/epas-final-financial-assistance-conflict-interest-policy. A conflict of interest may result in disallowance of costs.

x. U.S. EPA 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.

xi. Where an invention is made with Project Funds, U.S. EPA 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://iEdison.gov and shall notify the Division when an invention report, patent report, or utilization report is filed.

xii. The Recipient agrees that any reports, documents, publications or other materials developed for public distribution supported by this Agreement shall contain a Disclosure statement as required by the State Water Board.

xiii. The Recipient acknowledges that it 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.

November 6, 2018 (9-5)
xiv. The Recipient, its employees, contractors and subcontractors and their employees warrants that it will not engage in severe forms of trafficking in persons, 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.

xv. The Recipient certifies to the best of its knowledge and belief that:
   a. No federal appropriated funds 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.
   b. If any funds other than federal appropriated funds 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.

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 disbursements under this Agreement.

xvi. The Recipient must comply with the following federal non-discrimination requirements:
   a. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP).
   b. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities.
   c. The Age Discrimination Act of 1975, which prohibits age discrimination.
   d. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex.
   e. 40 CFR Part 7, as it relates to the foregoing.

xvii. If the Project relates to construction of a publicly owned treatment works, where the Recipient contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services, the Recipient shall ensure that any such contract is negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States Code, or an equivalent State qualifications-based requirement as determined by the State Water Board.

November 6, 2018 (9-5)
If the Project relates to construction of a publicly owned treatment works, the Recipient certifies that it has developed and is implementing a fiscal sustainability plan for the Project that includes an inventory of critical assets that are a part of the Project, an evaluation of the condition and performance of inventoried assets or asset groupings, a certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan, and a plan for maintaining, repairing, and, as necessary, replacing the Project and a plan for funding such activities.

Executive Order No. 11246. The Recipient shall include in its contracts and subcontracts related to the Project the following provisions:

"(a) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) The contractor will, in all solicitations or advertisements for employment, notices to be provided by the contracting officer, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

November 6, 2018 (9-5)
"(g) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

xx. The Recipient agrees to comply with the requirements of U.S. EPA's Program for Utilization of Small, Minority and Women's Business Enterprises.

xxi. 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; http://www.sam.gov/.


xxiii. The Recipient agrees that if its network or information system is connected to U.S. EPA networks to transfer data using systems other than the Environmental Information Exchange Network or U.S. EPA's Central Data Exchange, it will ensure that any connections are secure.

xxiv. All geospatial data created pursuant to this Agreement that is submitted to the State Water Board for use by U.S. EPA or that is submitted directly to U.S. EPA must be consistent with Federal Geographic Data Committee endorsed standards. Information on these standards may be found at www.fgdc.gov.

xxv. If the Recipient is a water system that serves 500 or fewer persons, the Recipient represents that it has considered publicly-owned wells as an alternative drinking water supply.

November 6, 2018 (9-5)
For purposes of the following, “subrecipient” or “sub recipient” means the Applicant.

For purposes of the following, “recipient” or “State recipient” means the State Water Board.

1. **Requirements For Sub recipients That Are Governmental Entities:**

If a sub recipient has questions regarding when Davis-Bacon (DB) applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State Water Board at DavisBacon@waterboards.ca.gov or phone (916) 327-7323. The recipient or sub recipient may also obtain additional guidance from DOL’s web site at http://www.dol.gov/whd/.

1. **Applicability of the Davis- Bacon (DB) prevailing wage requirements.**

DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a sub recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub recipient must discuss the situation with the recipient State before authorizing work on that site.

2. **Obtaining Wage Determinations.**

(a) Sub recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(ii) While the solicitation remains open, the sub recipient shall monitor www.wdol.gov weekly to ensure that the wage determination contained in the solicitation remains current. The sub recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub recipient.

(ii) If the sub recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub recipient shall monitor www.wdol.gov on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the sub recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub recipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) Sub recipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.
(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub recipient’s contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL’s wage determination retroactive to the beginning of the contract or ordering instrument by change order. The sub recipient’s contractor must be compensated for any increases in wages resulting from the use of DOL’s revised wage determination.


(a) The Recipient shall ensure that the sub recipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF - financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in 29 CFR § 5.1 or, for CWSRF projects, the FY 2015 Water Resource Reform and Development Act, or for DWSRF projects, the Consolidated Appropriations Act, 2017, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; Provided that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conforming under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. Sub recipients may obtain wage determinations from the U.S. Department of Labor’s web site, www.dol.gov.

(ii) The sub recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub recipient(s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the sub recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The sub recipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the
costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the subgrant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(3)(i) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee’s social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at https://www.dol.gov/whd/forms/index.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the sub recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub recipient(s).

(B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
(4) Apprentices and trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll as an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeymen’s hourly rate) specified in the contractor’s or subcontractor’s registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice’s level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee’s level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontractors. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and sub recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.
(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor’s firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).


4. Contract Provision for Contracts In Excess of $100,000.

(a) Contract Work Hours and Safety Standards Act. The sub recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of $25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub recipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work
Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section. (b) In addition to the clauses contained in Item 3, above, in any contract subject only to the

Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR S.1, the Sub recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payroll and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the USEPA and the Department of Labor and the State Water Board, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The Sub recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR S.6(a)(3), all interviews must be conducted in confidence. The Sub recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The Sub recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB.

Sub recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The Sub recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The Sub recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the Sub recipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Sub recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the Sub recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The Sub recipient shall periodically review contractors' and subcontractors' use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S. Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/whd/americas2.htm.
II. Requirements For Sub-recipients That Are Not Governmental Entities:

If a sub-recipient has questions regarding when Davis-Bacon (DB) applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient for guidance. The recipient or sub-recipient may also obtain additional guidance from DOL’s website at http://www.dol.gov/wdol/. Under these terms and conditions, the sub-recipient must submit its proposed DB wage determinations to the State Water Board for approval prior to including the wage determination in any solicitation, contract, task orders, work assignments, or similar instruments to existing contractors.

1. Applicability of the Davis-Bacon (DB) prevailing wage requirements.

DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a sub-recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub-recipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Sub-recipients must obtain proposed wage determinations for specific localities at www.wdol.gov. After the sub-recipient obtains its proposed wage determination, it must submit the wage determination to the State Water Board at DavisBacon@waterboards.ca.gov or phone (916) 327-7323 for approval prior to inserting the wage determination into a solicitation, contract or issuing task orders, work assignments or similar instruments to existing contractors (ordering instruments unless subsequently directed otherwise by the State recipient Award Official.)

(b) Sub-recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the sub-recipient shall monitor www.wdol.gov on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The sub-recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub-recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub-recipient.

(ii) If the sub-recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub-recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub-recipient shall monitor www.wdol.gov on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(c) If the sub-recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub-recipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(d) Sub-recipients shall review all subcontractors subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(e) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub-recipient’s contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub-recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub-recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL’s wage determination retroactive to the beginning of the contract or
ordering instrument by change order. The sub recipient’s contractor must be compensated for any increases in wages resulting from the use of DOL’s revised wage determination.


(a) The Recipient shall insure that the sub recipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in 29 CFR § 5.1 or, for CWSRF projects, the FY 2015 Water Resource Reform and Development Act, or for DWSRF projects, the FY 2017 Consolidated and Continuing Appropriations Act, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conferred under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Sub recipients may obtain wage determinations from the U.S. Department of Labor’s web site, www.dol.gov.

(ii)(A) The sub recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub recipient(s) to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the sub recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request, and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The sub recipient(s) shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the
costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratio and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(3)(i) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee’s social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the sub recipients for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub recipient(s).

(B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract;

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(i)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training. Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman’s hourly rate) specified in the contractor’s or subcontracts registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice’s level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee’s level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontractors. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Sub recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).


(a) Contract Work Hours and Safety Standards Act. The sub recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub recipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and
Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(c) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the USEPA and the Department of Labor and the State Water Board, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The sub recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR S.6(a)(3), all interviews must be conducted in confidence. The sub recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The Sub recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Sub recipients shall immediately conduct interviews in response to any alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The Sub recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The Sub recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable the Sub recipient should spot check payroll data within two weeks of each contractor or subcontractor’s submission of its initial payroll data and two weeks prior to the completion date of the contract or subcontract. Sub recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the Sub recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The Sub recipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S. Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/whd/america2.htm.
Exhibit E

Map
Exhibit F

Insurance Requirements

With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a Waiver of Insurance Requirements. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

District reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. INSURANCE

1.1. Workers Compensation and Employers Liability Insurance
   a. Required if Consultant has employees as defined by the Labor Code of the State of California.
   b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
   c. Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.
   d. Required Evidence of Insurance: Certificate of Insurance.
   e. If Consultant currently has no employees as defined by the Labor Code of the State of California, Consultant agrees to obtain the above-specified Workers Compensation and Employers’ Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

1.2. General Liability Insurance
   a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
   b. Minimum Limits: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, District requires and shall be entitled to coverage for the higher limits maintained by Consultant.
   c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it
must be approved in advance by District. Consultant is responsible for any deductible or self-insured retention and shall fund it upon District’s written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving the District.

d. Sonoma County Water Agency and Russian River County Sanitation District, their officers, agents, and employees, shall be endorsed as additional insureds for liability arising out of operations by or on behalf of the Consultant in the performance of this Agreement.

e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.

f. The policy definition of “insured contract” shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the “f” definition of insured contract in Insurance Services Office form CG 00 01, or equivalent).

g. The policy shall cover inter-insured suits between the additional insureds and Consultant and include a “separation of insureds” or “severability” clause which treats each insured separately.

h. Required Evidence of Insurance:
   i. Copy of the additional insured endorsement or policy language granting additional insured status, and
   ii. Certificate of Insurance.

1.3. Automobile Liability Insurance

a. Minimum Limit: $1,000,000 combined single limit per accident. The required limit may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance.

b. Insurance shall cover all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.

c. Insurance shall cover hired and non-owned autos.

d. Required Evidence of Insurance: Certificate of Insurance.

1.4. Professional Liability/Errors and Omissions Insurance

a. Minimum Limit: $1,000,000 per claim or per occurrence; $1,000,000 annual aggregate.

b. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by District.
c. If Consultant’s services include: (1) programming, customization, or maintenance of software; or (2) access to individuals’ private, personally identifiable information, the insurance shall cover:
   i. Breach of privacy; breach of data; programming errors, failure of work to meet contracted standards, and unauthorized access; and
   ii. Claims against Consultant arising from the negligence of Consultant, Consultant’s employees and Consultant’s subcontractors.

d. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.

e. Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.

f. Required Evidence of Insurance: Certificate of insurance specifying the limits and the claims-made retroactive date.

1.5. Standards for Insurance Companies
a. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best’s rating of at least A:VII.

1.6. Documentation
a. The Certificate of Insurance must include the following reference: TW 18/19-013.

b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Evidence of Insurance on file with District for the entire term of this Agreement and any additional periods if specified in Sections 1.1, 1.2, 1.3, or 1.4, above.

c. The name and address for mailing Additional Insured endorsements and Certificates of Insurance is: Russian River County Sanitation District, c/o Sonoma County Water Agency, 404 Aviation Boulevard, Santa Rosa, CA 95403-9019.

d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

e. Consultant shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.
1.7. Policy Obligations  
a. Consultant’s indemnity and other obligations shall not be limited by the foregoing insurance requirements.

1.8. Material Breach  
a. If Consultant fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. District, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, District may purchase the required insurance, and without further notice to Consultant, District may deduct from sums due to Consultant any premium costs advanced by District for such insurance. These remedies shall be in addition to any other remedies available to District.