



DRINKING WATER IMPLEMENTATION
GRANT

AMENDMENT NO. 1

AGREEMENT No. D2117006

by and between

SAN BERNARDINO COUNTY ("Recipient")

AND

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

for the purpose of the

SAN BERNARDINO COUNTY BOTTLED WATER PROJECT ("Project")

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- Section 116766 of the Health and Safety Code and State Water Board Resolution adopted on October 19, 2021.

PROJECT FUNDING AMOUNT: \$747, 656
ESTIMATED REASONABLE PROJECT COST: \$747,656

ELIGIBLE WORK START DATE: JANUARY 1, 2022
WORK COMPLETION DATE: ~~DECEMBER 31, 2025~~ **DECEMBER 31, 2028**
FINAL REIMBURSEMENT REQUEST DATE: ~~JANUARY 31, 2026~~ **MARCH 31, 2029**
RECORDS RETENTION END DATE: ~~DECEMBER 31, 2032~~ **DECEMBER 31, 2035**

This Agreement executed by the State Water Board on March 22, 2023, is hereby amended and restated to revise the cover page, the Agreement, Work Completion, Final Disbursement, and Records Retention End Dates, and Exhibit A (deletions shown as stricken and revisions bold and underlined). Except as noted herein all other terms and conditions shall remain the same. Please note, page numbers may have changed.

1. The State Water Board and the Recipient mutually promise, covenant, and agree to the terms, provisions, and conditions of this Agreement, including the following Exhibits, which are attached hereto or are incorporated by reference:

- Exhibit A – Scope of Work and Schedule
- Exhibit B – Funding Amounts
- Exhibit C – General Terms and Conditions 2019-NOV
- Exhibit D – Special Conditions

2. Reserved.

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

State Water Board		San Bernardino County	
Section:	Division of Financial Assistance		
Name:	Mark Magtoto, Project Manager	Name:	Jared Beyeler, Grant Contact
Address:	1001 I Street, 16th Floor	Address:	222 W. Hospitality Lane, 2nd Floor
City, State, Zip:	Sacramento, CA 95814	City, State, Zip:	San Bernardino, CA 92415-0450
Phone:	(916) 341-5481	Phone:	(760)962-1505
Email:	mark.magtoto@waterboards.ca.gov	Email:	jbeyeler@sdd.sbcounty.gov

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

4. Conditions precedent to this Agreement are set forth as follows:
- (a) The Recipient must deliver to the Division a resolution authorizing this Agreement and identifying its Authorized Representative by title.
5. The Recipient represents, warrants and commits to the following as of the Eligible Work Start Date and continuing thereafter for the term of this Agreement, which shall be at least until the Records Retention End Date:
- (a) The Recipient agrees to comply with all terms, provisions, conditions and commitments of this Agreement, including all incorporated documents.
- (b) The execution and delivery of this Agreement, including all incorporated documents, has been duly authorized by the Recipient. Upon execution by both parties, this Agreement constitutes a valid and binding obligation of the Recipient, enforceable in accordance with its terms, except as such enforcement may be limited by law.

- (c) None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of the Recipient. The Recipient is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. The Recipient is able to pay its debts as they become due. The Recipient maintains sufficient insurance coverage considering the scope of this Agreement, including, for example but not necessarily limited to, general liability, automobile liability, workers compensation and employer liability, professional liability.
 - (d) The Recipient is in compliance with all State Water Board funding agreements to which it is a party.
6. This Agreement, and any amendments hereto, may be executed and delivered in any number of counterparts, each of which when delivered shall be deemed to be an original, but such counterparts shall together constitute one document. The parties may sign this Agreement, and any amendments hereto, either by an electronic signature using a method approved by the State Water Board or by a physical, handwritten signature. The parties mutually agree that an electronic signature using a method approved by with the State Water Board is the same as a physical, handwritten signature for the purposes of validity, enforceability, and admissibility.

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

SAN BERNARDINO COUNTY:

STATE WATER RESOURCES CONTROL
BOARD:

By: _____

Name: Dawn Rowe

Title: Board of Supervisors Chair

Date: _____

By: _____

Name: Joe Karkoski

Title: Deputy Director
Division of Financial Assistance

Date: _____

EXHIBIT A – SCOPE OF WORK AND SCHEDULE

A.1. PROJECT PURPOSE AND DESCRIPTION.

The Project is the project set forth on the Cover Page of this Agreement. The Project is for the benefit of the Recipient and for the purpose of continuing the distribution of bottled drinking water to residents served by County Service Area 70 F (CSA 70 F) and County Service Area 70 W-3 (CSA 70 W-3). In addition, the Recipient, upon approval from the State Water Board, may also provide bottled drinking water to households served by other County Service Area water systems with populations of less than one thousand (1,000), managed by the Recipient, and with urgent drinking water needs that do not currently have any other bottled water programs serving the area. Bottled water will be provided to enrollees through the Work Completion Date or until a long-term solution, or other interim solution, is in place, whichever occurs first.

A.2. SCOPE OF WORK.

The Recipient agrees to do the following:

1. Project Management

- 1.1. Provide all technical and administrative services as needed for Project completion; monitor, supervise, and review all work performed; and coordinate budgeting and scheduling to ensure the Project is completed within budget, on schedule, and in accordance with approved procedures, applicable laws, and regulations.

2. Outreach

- 2.1. Develop outreach materials, in English and Spanish, to notify households of the availability of delivered bottled drinking water and submit to the Project Manager for approval. At a minimum, the outreach materials shall include:
 - A description of program services, including the amount of bottled water available per household, and the maximum duration of program enrollment, which is through the Work Completion Date or until a long-term solution, or other interim solution, is in place, whichever occurs first.
 - A description of the implementation process.

3. Program Enrollment

- 3.1. Develop a bottled water application for interested households served by CSA 70 F, CSA 70 W-3, or any additional County Service Area water systems

approved by the State Water Board and submit a copy to the Project Manager for review and approval. The application must require the following:

- The physical address and contact information for each household.
- A utility bill from residents or proof of ownership for homeowners; or another form of proof of residence for tenants that do not pay the utility bills. This requirement may be waived with Project Manager approval.

3.2. Provide the application, approved in Item 3.1, to currently enrolled and interested households that are served by CSA 70 F, CSA 70 W-3, or any additional County Service Area water systems approved by the State Water Board and assist with completing the application, as requested. Currently enrolled households will be required to submit the completed application within three (3) months to continue their enrollment in the program.

3.3. Review all applications and supporting documentation to determine eligibility.

3.4. Enroll eligible households to the program.

3.5. Create and update the Enrolled Households List and submit the updated Enrolled Households List with the associated quarterly progress report(s) to the Project Manager. The Enrolled Households List shall include the following information:

- Household Contact information
- Household Address
- The water system provider
- The household type (Owner-Occupied or Tenant)

4. Enrollment of Additional County Service Area Water Systems

4.1. Submit requests to enroll additional San Bernardino County Service Area water systems with populations less than one thousand (1,000) with urgent drinking water needs that do not currently have any other bottled water programs serving the area to the Project Manager for approval. The request shall include the following information:

- Documentation of an urgent drinking water need. This documentation shall generally consist of a compliance order or confirmation of contaminated water supply issues from the Division of Drinking Water District Engineer or Local Primacy Agency. In addition, documentation of a water system infrastructure failure such as dry well, pump failure, storage and distribution system issues that requires the provision of an alternative drinking water supply is also acceptable.
- Determination of Disadvantaged Community (DAC). Determine the eligibility of additional San Bernardino County Service Area water systems

as DACs using the MHI methodology in [Appendix A of the Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund](#).

5. Program Implementation

5.1. Develop contracts or agreements with bottled drinking water vendors to ensure coverage of program services for all households enrolled in the program

- Submit a copy of all signed contracts or agreements to the Project Manager.

5.2. Purchase and deliver or make available bottled drinking water in five (5) gallon containers to the households enrolled in Item 3.4, not to exceed sixty (60) gallons per household per month, through the Work Completion Date or until a long-term solution, or other interim solution, is in place, whichever occurs first.

- Notify the Project Manager of the start of bottled drinking water deliveries to each household.
- Make available, upon request, cases of six (6) packs of one (1) gallon containers of bottled drinking water for residents that cannot lift five (5) gallon containers due to age or health conditions. Bottled water deliveries in smaller than five (5) gallon containers may only be provided with prior Project Manager approval.
- Each household receiving deliveries in five (5) gallon containers will also receive one (1) hand pump with the initial delivery. Hand pumps are not required when six (6) packs of one (1) gallon bottles are provided.

5.3. Notify enrolled households, immediately, if a long-term solution or other interim solution is or will be in place prior to the Work Completion Date.

5.4. Disenroll any enrolled households, immediately, if a long-term solution or other interim solution is in place prior to the Work Completion Date.

6. Reporting

- 6.1. Notify the Project Manager, immediately, if a long-term solution or other interim solution is or will be in place prior to the Work Completion Date.

7. Large-Scale Emergencies

- 7.1. In the case of Large-Scale Emergencies, the following eligibility requirements may be waived for a period of time determined appropriate by the State Water Board. Waived eligibility requirements may include:

- Proof of residence.
- Proof of contaminated water supply.

A.3 RESERVED.

A.4 TABLE OF ITEMS FOR REVIEW.

Failure to provide items by the due dates indicated in the table below may constitute a material violation of this Agreement. The Recipient must complete and submit all work in time to be approved by the Division prior to the Work Completion Date. The Project Manager may adjust the dates in the “Estimated Due Date” column of this table, but Critical Due Date adjustments will require an amendment to this Agreement. As applicable for specific submittals, the Recipient must plan adequate time to solicit, receive, and address comments prior to submitting the final submittal. The Recipient must submit the final Reimbursement Request prior to the Final Reimbursement Request Date set forth on the Cover Page.

SUBMITTAL SCHEDULE

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
EXHIBIT A – SCOPE OF WORK AND SCHEDULE			
A.2	SCOPE OF WORK		
2.	Outreach		
2.1	Outreach Material	30 Days After Execution	
3.	Program Enrollment		
3.1	Application Form		Complete
3.5	Enrolled Household List	Quarterly	
4.	Enrollment of Additional County Service Areas		

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
4.1	Enrollment Request for Additional County Service Areas		As Needed
5.	Program Implementation		
5.1.1	Executed Contracts or Agreements		October 2022 <u>Completed</u>
5.2.1	Notification of Bottled Drinking Water Delivery		Completed
6.	Reporting		
6.1	Long-term or Other Interim Drinking Water Solution List		As Needed
A.4	Progress Reports	Quarterly	
EXHIBIT B – FUNDING AMOUNTS			
B.5(a)(4)	Reimbursement Requests	Quarterly	
B.5(a)(7)	Final Reimbursement Request	January 31, 2026 <u>March 31, 2029</u>	

A.5 QUARTERLY PROGRESS REPORTS.

The Recipient shall submit quarterly progress reports using the format provided by the Project Manager, within forty-five (45) days following the end of the calendar quarter (March, June, September, and December) to the Project Manager. The Recipient must provide a progress report with each Reimbursement Request. Failure to provide a complete and accurate progress report may result in the withholding of Project Funds, as set forth in Exhibit B. A progress report must contain the following information:

- (a) A summary of progress to date including a description of progress since the last report, percent of completion, budget, and amount invoiced by each deliverable.
- (b) Any problems encountered, proposed resolution, schedule for resolution, and status of previous problem resolutions.

A listing of change orders including amount, description of work, and change in contract amount and schedule.

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

A.6 FINAL PROJECT REPORTS.

At the conclusion of the Project, the Recipient must submit the following to the Project Manager:

(a) Draft Final Project Report

The Recipient must submit a Draft Final Project Report to the Project Manager for review and comment in a format provided by the Project Manager.

(b) Final Project Report

The Recipient must submit a Final Project Report to the Project Manager with a copy to the appropriate District Office on or before the due date established by the Division and the Recipient at the time of the final project inspection. The Final Project Report must include the following:

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

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

(d) The Recipient must submit information required for compliance with SAFER/Greenhouse Gas Reduction Fund requirements, as required by the Division.

A.7 RESERVED.

EXHIBIT B – FUNDING AMOUNTS

B.1 PROJECT FUNDS.

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

B.2 VERIFIABLE DATA.

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

B.3 BUDGET COSTS.

Estimated budget costs are contained in the Project Cost Table below:

LINE ITEM	PROJECT FUNDING AMOUNT
Personnel	\$ 18,890
Bottled Water Costs	\$728,766
TOTAL	\$747,656

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

B.4 LINE ITEM ADJUSTMENTS.

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

- (c) The sum of adjusted line items shall not exceed the total budget amount.

B.5 REIMBURSEMENT PROCEDURE.

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

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

Report. Failure to provide timely Reimbursement Requests may result in such requests not being honored.

- (f) The Recipient agrees that it will not submit any Reimbursement Requests that include any Project Costs until such costs have been incurred and are currently due and payable by the Recipient, although the actual payment of such costs by the Recipient is not required as a condition of Reimbursement Request. Supporting documentation (e.g., receipts) must be submitted with each Reimbursement Request as well as to support Match Contribution claimed, if any. The amount requested for administration costs must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = total amount claimed). Reimbursement of Project Funds will be made only after receipt of a complete, adequately supported, properly documented and accurately addressed Reimbursement Request.
- (g) The Recipient will not seek reimbursement of any Project Costs that have been reimbursed from other funding sources.
- (h) Recipient must use Project Funds within thirty (30) days of receipt to reimburse contractors, vendors, and other Project Costs. Any interest earned on Project Funds must be reported to the State Water Board and will either be required to be returned to the State Water Board or deducted from future reimbursements. In the event that the Recipient fails to disburse Project Funds to contractors or vendors within thirty (30) days from receipt of the Project Funds, the Recipient must immediately return such Project Funds to the State Water Board. Interest shall accrue on such Project Funds from the date of reimbursement through the date of mailing of Project Funds to the State Water Board. If the Recipient held such Project Funds in interest-bearing accounts, any interest earned on the Project Funds shall also be due to the State Water Board.
- (i) Recipient must submit its final Reimbursement Request no later than the Final Reimbursement Request Date specified herein. If the Recipient fails to do so, then the undisbursed balance of this Agreement may be deobligated.
- (j) The Recipient agrees that it will not request a reimbursement unless that cost is allowable, reasonable, and allocable.
- (k) Notwithstanding any other provision of this Agreement, no reimbursement shall be required at any time or in any manner that is in violation of or in conflict with federal or state laws, policies, or regulations.
- (l) The Recipient agrees that it shall not be entitled to interest earned on undisbursed Project Funds.
- (m) The Recipient must include any other documents or requests required or allowed under this Agreement.
- (n) Any reimbursement for necessary travel and per diem shall be at rates not to exceed those set by the California Department of Human Resources. These rates may be found at: <http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>. Reimbursement will be at the state travel and per diem amounts that are current as of the date costs are incurred by the Recipient. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the Project Manager.

B.6 CONTINGENT DISBURSEMENT.

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

B.7 REVERTING FUNDS AND DISENCUMBRANCE.

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

EXHIBIT C – GENERAL TERMS AND CONDITIONS 2019-NOV

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

EXHIBIT D – SPECIAL CONDITIONS

D.1 PROGRAMMATIC CONDITIONS.

The State Water Board may terminate this Agreement if the Recipient's quarterly progress reports fail to document adequate progress toward achieving a long-term drinking water solution.

The State Water Board may terminate this Agreement if bottled or hauled water can be provided to the same residents through other means, such as regional or statewide programs funded by the State Water Board or other agencies.

D.2 DEFINITIONS.

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

- "Authorized Representative" means the duly appointed representative of the Recipient as set forth in the certified original of the Recipient's authorizing resolution that designates the Authorized Representative by title.
- "District Office" means District Office of the Division of Drinking Water of the State Water Board.
- "Division of Drinking Water" means the Division of Drinking Water of the State Water Board.
- "Eligible Work Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which any costs may be incurred and eligible for reimbursement hereunder.
- "Event of Default" means, in addition to the meanings set forth in Exhibit C, the occurrence of any of the following events:
 - a) A material adverse change in the condition of the Recipient, the Revenues, or the System, which the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement;
 - b) Failure to operate the Project, unless the Division has given its approval for such non-operation; and
 - c) The occurrence of a material breach or event of default under any Recipient obligation that results in the acceleration of principal or interest or otherwise requires immediate prepayment, repurchase or redemption.
- "Recipient" means San Bernardino County.

- “Project Director” means an employee of the Recipient designated by the Authorized Representative to be responsible for the overall management of the administrative and technical aspects of the executed Agreement.

D.3 RESERVED.

D.4 ACKNOWLEDGEMENTS.

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

“Funding for this project has been provided in full or in part under the Safe and Affordable Funding for Equity and Resiliency (SAFER) Drinking Water Program through an agreement with the State Water Resources Control Board. The contents of this document do not necessarily reflect the views and policies of the foregoing, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.”

D.5 RESERVED.

D.6 RESERVED.

D.7 RESERVED.

D.8 NOTICE.

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

- (a) Bankruptcy, insolvency, receivership or similar event of the Recipient, or actions taken in anticipation of any of the foregoing;
- (b) Loss, theft, damage, or impairment to Project;
- (c) Events of Default, except as otherwise set forth in this section;
- (d) Consideration of dissolution, or disincorporation;
- (e) Enforcement actions by or brought on behalf of the State Water Board or Regional Water Board;
- (f) The discovery of a false statement of fact or representation made in this Agreement or in the application to the Division for this funding, or in any certification, report, or request for reimbursement made pursuant to this Agreement, by the Recipient, its employees, agents, or contractors;
- (g) Any substantial change in scope of the Project. The Recipient must undertake no substantial change in the scope of the Project until prompt written notice of the

- proposed change has been provided to the Division and the Division has given written approval for the change;
- (h) Any circumstance, combination of circumstances, or condition, which is expected to or does delay Work Completion for a period of ninety (90) days or more;
 - (i) Any Project monitoring, demonstration, or other implementation activities required in this Agreement;
 - (j) Any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by state representatives with at least ten (10) working days' notice to the Division;
 - (k) Any event requiring notice to the Division pursuant to any other provision of this Agreement;
 - (l) Completion of work on the Project;
 - (m) The Recipient must promptly notify the Division and Party Contacts of Work Completion, and Project Completion;
 - (n) The occurrence of a material breach or event of default under any Recipient obligation that results in the acceleration of principal or interest or otherwise requires immediate prepayment, repurchase or redemption;

D.9 RESERVED

D.10 RESERVED

D.11 STATE CROSS-CUTTERS.

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

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

- Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Water Code, § 10610 et seq.).
- Urban Water Demand Management requirements, including the requirements of section 10608.56 of the Water Code.
- Delta Plan Consistency Findings requirements, including the requirements of Water Code section 85225 and California Code of Regulations, Title 23, section 5002.
- Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.
- Charter City Project Labor Requirements, including the requirements of Labor Code section 1782 and Public Contract Code section 2503.
- The Recipient agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with directives or orders issued pursuant to Division 7 of the Water Code.

D.12 FRAUD, WASTE, AND ABUSE.

The Recipient shall prevent fraud, waste, and the abuse of Project Funds, and shall cooperate in any investigation of such activities that are suspected in connection with this Agreement. The Recipient understands that discovery of any evidence of misrepresentation or fraud related to Reimbursement Requests, invoices, proof of payment of invoices, or other supporting information including, but not limited to, double or multiple billing for time, services, or any other eligible cost, may result in referral to the Attorney General's Office or the applicable District Attorney's Office for appropriate action. The Recipient further understands that any suspected occurrences of false claims, misrepresentation, fraud, forgery, theft or any other misuse of Project Funds may result in withholding of reimbursements and/or the termination of this Agreement requiring the immediate repayment of all Project Funds disbursed hereunder.

D.13 DISPUTES.

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

establish an exclusive procedure for resolving claims within the meaning of Government Code sections 930 and 930.4.

D.14 ADDITIONAL REPRESENTATIONS AND WARRANTIES.

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

The Recipient agrees to fulfill all assurances, declarations, representations, and commitments in its application, accompanying documents, and communications filed in support of its request for funding under this Agreement.

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

Except as set forth in this paragraph, there are, as of the date of execution of this Agreement by the Recipient, no pending or, to Recipient's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency which materially affect the financial condition or operations of the Recipient, and/or the Project.

There are no proceedings, actions, or offers by a public entity to acquire by purchase or the power of eminent domain any of the real or personal property related to or necessary for the Project.

The Recipient is duly organized and existing and in good standing under the laws of the State of California. Recipient must at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority. Within the preceding ten (10) years, the Recipient has not failed to demonstrate compliance with state or federal audit disallowances.

Any financial statements or other financial documentation of Recipient previously delivered to the State Water Board as of the date(s) set forth in such financial statements or other financial documentation: (a) are materially complete and correct; (b) present fairly the financial condition of the Recipient; and (c) have been prepared in accordance with GAAP. Since the date(s) of such financial statements or other financial documentation, there has been no material adverse change in the financial condition of the Recipient, nor have any assets or properties reflected on such financial statements or other financial documentation been sold, transferred, assigned, mortgaged, pledged or encumbered, except as previously disclosed in writing by Recipient and approved in writing by the State Water Board.

The Recipient is current in its continuing disclosure obligations associated with its material debt, if any.

The Recipient has no conflicting or Material Obligations, except as set forth in this paragraph.

The Recipient has sufficient real or personal property rights necessary for the purposes of this Agreement, not subject to third party revocation, which rights extend at least to the Records Retention End Date of this Agreement, except as disclosed to the State Water Board. The Recipient has disclosed to the State Water Board all proceedings, actions, or offers of which the Recipient has knowledge or belief that may in any way affect the Recipient's ability to access or legally possess all of the property necessary for the purpose of this Agreement, including any proceedings, actions, or offers to lease, purchase, or acquire by eminent domain any of the real or personal property related to or necessary for the Project.

The Recipient legally possesses property access rights to any real or personal property necessary for the purposes of this Agreement for which the Recipient does not legally possess all real or personal property rights. The Recipient has disclosed to the State Water Board all proceedings, actions, or offers of which the Recipient has knowledge or belief that may in any way affect the Recipient's ability to access or legally possess all of the property necessary for the purpose of this Agreement, including any proceedings, actions, or offers to lease, purchase, or acquire by eminent domain any of the real or personal property related to or necessary for the Project.

The Recipient and its principals, contractors, and subcontractors, to the best of the Recipient's knowledge and belief, are not presently debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in any work overseen, directed, funded, or administered by the State Water Board program for which this grant funding is authorized; nor have they engaged or permitted the performance of services covered by this Agreement from parties that are debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which this grant funding is authorized.

D.15 FUNDS RELATED TO CONTAMINATION.

- (a) As a condition precedent to this Agreement and prior to any disbursement, the Recipient shall (i) notify the Division of any demands made by the Recipient against third parties for monetary damages, reimbursement of costs, or other relief, including litigation, related to drinking water contamination including, but not limited to, contamination by 1,2,3-trichloropropane (1,2,3-TCP); and (ii) unless waived by the Division, notify and provide to the Division copies of any agreements with third parties (e.g., settlement agreements, consent agreements, etc.) or court or administrative orders arising out of litigation or disputes related to contamination of the drinking water associated with the Project.
- (b) After execution of this Agreement, the Recipient shall notify the Division promptly of the new occurrence of any matters requiring notice under paragraph (a), above. Upon request, the Recipient shall promptly provide information and copies of documents as requested by the Division.
- (c) The Recipient shall place all funds received after the date of this Agreement under any order or agreement described in paragraphs (a)(ii) and (b), above, into a restricted account to be used either for a capital improvement project that addresses

the contamination, or for operation and maintenance of treatment or remediation of the contamination. Alternatively, upon consent of the Division, the funds received after the date of this Agreement under any such order or agreement shall be used as match funding for the Project or held in a restricted reserve account to support the financial capacity of the System.

- (d) The amount of this Agreement may be reduced, and/or disbursements withheld, to offset amounts received under any contamination-related order or agreement described in paragraphs (a)(ii) or (b), above, to avoid double recovery. Noncompliance with paragraphs (a), (b), or (c) above shall be an Event of Default.

D.16 RETURN OF FUNDS.

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

D.17 EXECUTIVE ORDER N-6-22 - RUSSIAN SANCTIONS.

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

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

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

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