

**FUNDING AGREEMENT BETWEEN THE STATE OF CALIFORNIA (CALIFORNIA WATER COMMISSION) AND**

**<FUNDING RECIPIENT NAME>**

**FOR**

**<PROJECT NAME>**

**WATER STORAGE INVESTMENT PROGRAM (WSIP)**

**AGREEMENT NUMBER 46000#####**

**WATER QUALITY, SUPPLY, AND INFRASTRUCTURE IMPROVEMENT ACT OF 2014**

**CALIFORNIA WATER CODE 79750 ET SEQ.**

THIS FUNDING AGREEMENT is entered into by and between the California Water Commission (Commission) of the State of California, herein referred to as the "State" and the <insert Funding Recipient Name>, a public agency in the State of California, duly organized, existing, and acting pursuant to the laws thereof, herein referred to as the "Funding Recipient," which parties do hereby agree as follows:

1. PURPOSE. State shall provide funding from the Water Quality, Supply, and Infrastructure Improvement Act of 2014 to Funding Recipient to assist in financing the <insert project title> (Project) pursuant to Water Code section 79750 et seq. and California Code of Regulations, title 23, sections 6000-6015.
2. TERM OF FUNDING AGREEMENT. The term of this Funding Agreement begins on the date this Funding Agreement is executed by State, through December 31, 20##<use the useful life of the project to set the termination date, i.e. using the project schedule, add the useful life of the project to the date of initial operation. If the useful like is <35 years, use 35 years after final payment for the term>, unless otherwise terminated or amended as provided in this agreement. Execution date is the date the State signs this Funding Agreement indicated on page <number of the signature page>.
3. PROJECT COST. The reasonable cost of the Project is estimated to be \$<insert Project Cost>.
4. FUNDING AMOUNT. The maximum amount payable by the State under this Agreement shall not exceed \$<INSERT AMOUNT> which is the total amount outstanding from the Commission's Maximum Conditional Eligible Determination.
5. NON-PROGRAM COST SHARE. Funding Recipient agrees to fund the difference between the actual Total Project Cost, as estimated in Exhibit B (Budget), and the amount specified in Paragraph 4 (Funding Amount), if any. Non-Program Cost Share is estimated to be \$<INSERT AMOUNT>. Additional Non-Program Cost Share will not be reviewed by the State for invoicing purposes; however, the Funding Recipient is required to maintain all financial records associated with the project in accordance with Exhibit G (State Audit Document Requirements). <Use this sentence for Early Funding projects> This Project was authorized Early Funding through Funding Agreement Number 46000#####; no funds reimbursed or credited as Non-Program Cost Share may be applied towards the required Non-Program Cost Share for this Funding Agreement. Non-Program Cost Share may include, but is not limited to local, federal, or other non-WSIP State funds, as documented in Exhibit B (Budget); see Exhibit G (State Audit Document Requirements) for guidance.
6. FUNDING RECIPIENT'S RESPONSIBILITY. Funding Recipient and its representatives shall:
  - A. Faithfully and expeditiously perform or cause to be performed all project work as described in Exhibit A (Work Plan) and in accordance with Exhibit B (Budget) and Exhibit C (Schedule).
  - B. Accept and agree to comply with all terms, provisions, conditions, and written commitments of this Funding Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and statements made by Funding Recipient in the application, documents, amendments, and communications filed in support of its request for Water Quality, Supply, and Infrastructure Improvement Act of 2014 financing.
  - C. Comply with all applicable California laws and regulations.
  - D. Implement the Project in accordance with applicable provisions of the law.

- E. Fulfill its obligations under the Funding Agreement and be responsible for the performance of the Project.
7. BASIC CONDITIONS. State shall have no obligation to disburse money for the Project under this Funding Agreement until Funding Recipient has satisfied the following conditions:
- A. Execution of contracts that demonstrate that 100 percent of the Non-Program Cost Share to construct the Project will be paid.
  - B. Execution of public benefits contracts with the administering agencies, as listed in Paragraph 21 (Standard Provisions and Integration) and presented in Exhibits **H through J**.
  - C. Submittal of a Completed Feasibility Study that thoroughly evaluates the Project's feasibility, including, but not limited to, cost effectiveness and technical feasibility.
  - D. Submittal of final environmental documentation. Work that is subject to the California Environmental Quality Act (CEQA) and or environmental permitting shall not proceed under this Agreement until the following actions are performed:
    - i. Funding Recipient submits to the State all applicable environmental permits,
    - ii. Documents that satisfy the CEQA process are received by the State,
    - iii. State has completed its CEQA compliance review as a Responsible Agency, and
    - iv. Funding Recipient receives written concurrence from the State of Lead Agency's CEQA document(s).

State's concurrence of Lead Agency's CEQA documents is fully discretionary and shall constitute a condition precedent to any work (i.e., construction or implementation activities) for which it is required. Once CEQA documentation has been completed, State will consider the environmental documents and decide whether to continue to fund the Project or to require changes, alterations or other mitigation. Funding Recipient must also demonstrate that it has complied with all applicable requirements of the National Environmental Policy Act (NEPA) by submitting copies of any environmental documents, including environmental impact statements, Finding of No Significant Impact, mitigation monitoring programs, and environmental permits as may be required prior to beginning construction/implementation.
  - E. Submittal of audited financial statements for the two most recent fiscal years.
8. CONTINUING ELIGIBILITY. Funding Recipient must meet the following ongoing requirement(s) to remain eligible to receive State funds:
- A. Compliance with the public benefit contracts, as listed in Paragraph 21 Standard Provisions and Integration) and incorporated in Exhibits **H through J**.
  - B. An urban or agricultural water supplier that receives funding governed by this Agreement shall maintain compliance with the Water Code section 10608.56.
  - C. Demonstrate compliance with the Sustainable Groundwater Management Act (California Water Code section 10720 *et seq.*)
  - D. Timely submittal of Progress Reports as specified in Paragraph 16 (Submission of Reports).
  - E. Timely submittal of all deliverables as specified in Exhibit A (Work Plan).
9. PERMITS, LICENSES, APPROVALS, AND LEGAL OBLIGATIONS. Funding Recipient shall be responsible for obtaining any and all permits, licenses, and approvals required for performing any work under this Funding Agreement. Funding Recipient shall be responsible for observing and complying with any applicable federal, state, and local laws, rules or regulations affecting any such work, specifically those including, but not limited to, environmental, procurement, and safety laws, rules, regulations, and ordinances. Funding Recipient shall provide copies of permits and approvals to State.
10. RELATIONSHIP OF PARTIES. Funding Recipient is solely responsible for design, construction, and operation and maintenance of projects within the work plan. Review or approval of plans, specifications, bid documents, or other construction documents by State is solely for the purpose of proper administration of

funds by State and shall not be deemed to relieve or restrict responsibilities of Funding Recipient under this Funding Agreement.

11. DISBURSEMENT OF FUNDS. State will disburse to Funding Recipient the amount approved, subject to the availability of funds through normal State processes. Notwithstanding any other provision of this Funding Agreement, no disbursement shall be required at any time or in any manner which is in violation of, or in conflict with, federal or state laws, rules, or regulations, or which may require any rebates to the federal government, or any loss of tax-free status on state bonds, pursuant to any federal statute or regulation. Any and all money disbursed to Funding Recipient under this Funding Agreement shall be deposited in a non-interest bearing account and shall be used solely to pay Eligible Project Costs.
12. ELIGIBLE PROJECT COST. Funding Recipient shall apply State funds received only to eligible Project Costs in accordance with applicable provisions of the law and Exhibit B (Budget). Eligible Project Costs include the reasonable costs of studies, engineering, design, land and easement acquisition, legal fees, preparation of WSIP application and review process documentation and activities, preparation of environmental documentation, environmental mitigations, monitoring, and project construction. Reimbursable administrative expenses are the necessary costs incidental but directly related to the Project included in this Agreement. Work performed on the Project after November 4, 2014, shall be eligible for reimbursement.  
  
Unless stated otherwise, costs that are not eligible for reimbursement with State funds cannot be counted as Non-Program Cost Share. Costs that are not eligible for reimbursement include but are not limited to the following items:
  - A. Costs, other than those noted above, incurred prior to November 4, 2014.
  - B. Operation and maintenance costs, including post construction performance and monitoring costs.
  - C. Land acquired via eminent domain.
  - D. Purchase of equipment not an integral part of a project.
  - E. Establishing a reserve fund.
  - F. Purchase of water supply.
  - G. Monitoring and assessment costs for efforts required after project construction is complete.
  - H. Replacement of existing funding sources for ongoing programs.
  - I. Travel and per diem costs.
  - J. Support of existing agency requirements and mandates (e.g., punitive regulatory agency requirements).
  - K. Purchase of land in excess of the minimum required acreage necessary to operate as an integral part of a project, as set forth and detailed by engineering and feasibility studies.
  - L. Overhead and indirect costs. "Indirect Costs" means those costs that are incurred for a common or joint purpose benefiting more than one cost objective and are not readily assignable to the funded project (i.e., costs that are not directly related to the funded project). Examples of Indirect Costs include, but are not limited to: central service costs; general administration of the Funding Recipient; non-project-specific accounting and personnel services performed within the Funding Recipient's organization; depreciation or use allowances on buildings and equipment; the costs of operating and maintaining non-project-specific facilities; tuition and conference fees; and, generic overhead or markup. This prohibition applies to the Funding Recipient and any subcontract or sub-agreement for work on the Project that will be reimbursed pursuant to this Agreement.
13. METHOD OF PAYMENT. After the disbursement requirements in Paragraph 7 (Basic Conditions) are met, State will disburse the whole or portions of State funding to Funding Recipient, following receipt of a signed invoice for costs incurred, including Non-Program Cost Share, and timely Quarterly Progress Reports as required by Paragraph 16, (Submission of Reports). Payment will be made no more frequently than monthly, in arrears, upon receipt of an invoice bearing the Funding Agreement number. State will notify Funding Recipient, in a timely manner, whenever, upon review of an Invoice, State determines that any portion or portions of the costs claimed are not eligible costs or is not supported by documentation or receipts acceptable to State. Funding Recipient may, within thirty (30) calendar days of the date of receipt of such

notice, submit additional documentation to State to cure such deficiency(ies). If Funding Recipient fails to submit adequate documentation curing the deficiency(ies), State will adjust the pending invoice by the amount of ineligible or unapproved costs.

Invoices submitted by Funding Recipient shall include the following information:

- A. Costs incurred for work performed in implementing the Project during the period identified in the particular invoice.
- B. Costs incurred for any interests in real property (land or easements) that have been necessarily acquired for the Project during the period identified in the particular invoice for the implementation of the Project.
- C. Invoices shall be submitted on forms provided by State and shall meet the following format requirements:
  - i. Invoices must contain the date of the invoice, the time period covered by the invoice, and the total amount due.
  - ii. Invoices must be itemized based on the categories (i.e., tasks) specified in Exhibit B (Budget). The amount claimed for salaries/wages/consultant fees must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = the total amount claimed).
  - iii. One set of sufficient evidence (i.e., receipts, vendor invoices, payroll records) must be provided for all costs included in the invoice.
  - iv. Each invoice shall clearly delineate those costs claimed for reimbursement from the State's funding amount, as depicted in Paragraph 4 (Funding Amount) and those costs that represent Funding Recipient's costs, as applicable, in Paragraph 5 (Non-Program Cost Share).

All invoices submitted shall be accurate and signed under penalty of law. Any and all costs submitted pursuant to this Agreement shall only be for the tasks set forth herein. The Funding Recipient shall not submit any invoice containing costs that are ineligible or have been reimbursed from other funding sources unless required and specifically noted as such (i.e., Non-Program Cost Share). Any eligible costs for which the Funding Recipient is seeking reimbursement shall not be reimbursed from any other source. Double or multiple billing for time, services, or any other eligible cost is illegal and constitutes fraud. Any suspected occurrences of fraud, forgery, embezzlement, theft, or any other misuse of public funds may result in suspension of disbursements of grant funds and/or termination of this Agreement requiring the repayment of all funds disbursed hereunder plus interest. Additionally, the State may request an audit pursuant to Paragraph D.5 (Audits) and refer the matter to the Attorney General's Office or the appropriate district attorney's office for criminal prosecution or the imposition of civil liability. (Civil Code sections 1572-1573; Penal Code sections 470, 489-490.)

14. WITHHOLDING OF DISBURSEMENTS BY STATE. If State determines that the Project is not being implemented in accordance with the provisions of this Funding Agreement, or that Funding Recipient has failed in any other respect to comply with the provisions of this Funding Agreement, and if Funding Recipient does not remedy any such failure to State's satisfaction, State may withhold from Funding Recipient all or any portion of the State funding and take any other action that it deems necessary to protect its interests. Where a portion of the State funding has been disbursed to the Funding Recipient and State notifies Funding Recipient of its decision not to release funds that have been withheld pursuant to Paragraph 15 (Default Provisions), the portion that has been disbursed shall thereafter be repaid immediately with interest at the California general obligation bond interest rate at the time the State notifies the Funding Recipient, as directed by State. State may consider Funding Recipient's refusal to repay the requested disbursed amount a contract breach subject to the default provisions in Paragraph 15 (Default Provisions). If State notifies Funding Recipient of its decision to withhold the entire funding amount from Funding Recipient pursuant to this paragraph, this Funding Agreement shall terminate upon receipt of such notice by Funding Recipient and the State shall no longer be required to provide funds under this Funding Agreement and the Funding Agreement shall no longer be binding on either party.

15. DEFAULT PROVISIONS. Funding Recipient will be in default under this Funding Agreement if any of the following occur:

- A. Substantial breaches of this Funding Agreement, or any supplement or amendment to it, or any other agreement between Funding Recipient and State evidencing or securing Funding Recipient's obligations.
- B. Making any false warranty, representation, or statement with respect to this Funding Agreement or the application filed to obtain this Funding Agreement.
- C. Failure to provide public benefits or approved equivalent public benefits.
- D. Failure to operate or maintain project in accordance with this Funding Agreement.
- E. Failure to make any remittance required by this Funding Agreement.
- F. Failure to submit timely progress reports.
- G. Failure to routinely invoice State.
- H. Failure to meet any of the requirements set forth in Paragraph 8 (Continuing Eligibility).

Should an event of default occur, State shall provide a notice of default to the Funding Recipient and shall give Funding Recipient at least ten (10) calendar days to cure the default from the date the notice is sent via first-class mail to the Funding Recipient. If the Funding Recipient fails to cure the default within the time prescribed by the State, State may do any of the following:

- I. Declare the funding be immediately repaid, with interest, which shall be equal to State of California general obligation bond interest rate in effect at the time of the default.
- J. Terminate any obligation to make future payments to Funding Recipient.
- K. Terminate the Funding Agreement.
- L. Take any other action that it deems necessary to protect its interests.

In the event State finds it necessary to enforce this provision of this Funding Agreement in the manner provided by law, Funding Recipient agrees to pay all costs incurred by State including, but not limited to, reasonable attorneys' fees, legal expenses, and costs.

16. SUBMISSION OF REPORTS. The submittal and approval of all reports is a requirement for the successful completion of this Funding Agreement. Reports shall meet generally accepted professional standards for technical reporting and shall be proofread for content, numerical accuracy, spelling, and grammar prior to submittal to State. All reports shall be submitted to the State's Project Manager. If requested, Funding Recipient shall promptly provide any additional information deemed necessary by State for the approval of reports. Reports shall be presented in the formats described in the applicable portion of Exhibit F (Report Formats and Requirements). The timely submittal of reports is a requirement for initial and continued disbursement of State funds.

- A. Progress Reports: Funding Recipient shall submit Progress Reports to meet the State's requirement for disbursement of funds. Progress Reports shall, in part, provide a brief description of the work performed, Funding Recipients activities, milestones achieved, any accomplishments and any problems encountered in the performance of the work under this Funding Agreement during the reporting period. The first Progress Report shall be submitted to the State no later than **<insert a reasonable date, generally at least 1 quarter after the execution of the agreement>** with future reports then due, at least, on successive three-month increments based on the invoicing schedule and this date.
- B. **<Note: Include this clause, if construction schedule is > 5 years>** Biennial Costs and Disposition of Funds Report: Funding Recipient shall submit to the State Biennial Costs and Disposition of Funds Reports that summarizes prior invoicing and payment information. The Biennial Costs and Disposition of Funds Report is due every 2 years based on the effective date of this Funding Agreement indicated on page **<number of signature page>** through Project completion, **defined as commencement of project operations <Note: Move to next sub-clause, if this sub-clause is deleted>**.
- C. Project Completion Report: Funding Recipient shall submit the Project Completion Report within ninety (90) calendar days of Project completion. The Project Completion Report shall include, in part, a description of actual work done, any changes or amendments to the Project, and a final schedule showing actual progress versus planned progress, copies of any final documents or reports generated or utilized during the Project. The Project Completion Report shall also include certification of the final

Project by a registered civil engineer, consistent with Standard Condition D.17 (Final Inspections and Certification of Registered Civil Engineer). A "Certification of Project Completion" form will be provided by the State.

17. OPERATION AND MAINTENANCE OF PROJECT. For the useful life of the Project and in consideration of the funding made by State, Funding Recipient agrees to ensure or cause to be performed the commencement and continued operation of the Project, and shall ensure or cause the Project to be operated in an efficient and economical manner; shall ensure all repairs, renewals, and replacements necessary to the efficient operation of the same are provided; and shall ensure or cause the same to be maintained in as good and efficient condition as upon its construction, ordinary and reasonable wear and depreciation excepted. The State shall not be liable for any cost of such maintenance, management, or operation. Funding Recipient or their successors may, with the written approval of State, transfer this responsibility to use, manage, and maintain the property. For purposes of this Funding Agreement, "useful life" means period during which an asset, property, or activity is expected to be usable for the purpose it was acquired or implemented; "operation costs" include direct costs incurred for material and labor needed for operations, utilities, insurance, and similar expenses, and "maintenance costs" include ordinary repairs and replacements of a recurring nature necessary for capital assets and basic structures and the expenditure of funds necessary to replace or reconstruct capital assets or basic structures. Refusal of Funding Recipient to ensure operation and maintenance of the Project in accordance with this provision may, at the option of State, be considered a breach of this Funding Agreement and may be treated as default under Paragraph 15 (Default Provisions).
18. NOTIFICATION OF STATE. Funding Recipient shall promptly notify State, in writing, of the following items:
- A. Events or proposed changes that could affect the scope, budget, or work performed under this Funding Agreement. Funding Recipient agrees that no substantial change in the scope of the Project will be undertaken until written notice of the proposed change has been provided to State and State has given written approval for such change. Substantial changes generally include changes to the scope of work, schedule or term, and budget.
  - B. Any public or media event publicizing the accomplishments and/or results of this Funding Agreement and provide the opportunity for attendance and participation by State's representatives. Funding Recipient shall make such notification at least 14 calendar days prior to the event.
  - C. Discovery of any potential archaeological or historical resource. Should a potential archaeological or historical resource be discovered while undertaking the tasks set for in Exhibit A (Work Plan), the Funding Recipient agrees that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the State has determined what actions should be taken to protect and preserve the resource. The Funding Recipient agrees to implement appropriate actions as directed by the State.
  - D. The initiation of any litigation or the threat of litigation against the Funding Recipient regarding the Project or that may affect the Project in any way.
  - E. Final inspection of the completed work on a project by a Registered Civil Engineer, in accordance with Standard Condition D.17 (Final Inspections and Certification of Registered Civil Engineer). Funding Recipient shall notify the State's Project Manager of the inspection date at least 14 calendar days prior to the inspection in order to provide State the opportunity to participate in the inspection.
19. NOTICES. Any notice, demand, request, consent, or approval that either party desires or is required to give to the other party under this Funding Agreement shall be in writing. Notices may be transmitted by any of the following means:
- A. By delivery in person.
  - B. By certified U.S. mail, return receipt requested, postage prepaid.
  - C. By "overnight" delivery service; provided that next-business-day delivery is requested by the sender.
  - D. By electronic means.
  - E. Notices delivered in person will be deemed effective immediately on receipt (or refusal of delivery or receipt). Notices sent by certified mail will be deemed effective given ten (10) calendar days after the date deposited with the U. S. Postal Service. Notices sent by overnight delivery service will be deemed

effective one business day after the date deposited with the delivery service. Notices sent electronically will be effective on the date of transmission, which is documented in writing. Notices shall be sent to the below addresses.

Either party may, by written notice to the other, designate a different address that shall be substituted for the one below.

20. PROJECT REPRESENTATIVES. The Project Representatives during the term of this Funding Agreement are as follows:

<CWC EO>

Executive Officer  
California Water Commission  
P.O. Box 942836  
Sacramento, California 94236-0001  
[redacted]@water.ca.gov

<Insert Funding Recipient Project Representative title, name, mailing address and contact information>

Direct all inquiries to the Project Manager:

<CWC PM>

California Water Commission  
P.O. Box 942836  
Sacramento, California 94236-0001  
[redacted]@water.ca.gov

<Insert Funding Recipient Project Manager name, mailing address and contact information>

Either party may change its Project Representative or Project Manager upon written notice to the other party.

21. STANDARD PROVISIONS AND INTEGRATION. This Funding Agreement is complete and is the final Agreement between the parties. All terms, provisions, and agreements set forth in the public benefits contracts with the administering agencies, Exhibits H through J, (except to the extent expressly modified herein) are hereby incorporated by reference with the same force and effect as though fully set forth herein. To the extent that the terms set forth in the public benefits contracts with the administering agencies are inconsistent with the terms of this Funding Agreement, the terms set forth in this agreement shall apply. The following Exhibits are attached and made a part of this Funding Agreement by this reference:

Exhibit A – Work Plan

Exhibit B – Budget

Exhibit C – Schedule

Exhibit D – Standard Conditions

Exhibit E – Authorizing Resolution Accepting Funds

Exhibit F – Report Formats and Requirements

Exhibit G – State Audit Document Requirements

Exhibit H – Public Benefits Contract – Department of Fish and Wildlife

Exhibit I – Public Benefits Contract – Department of Water Resources

Exhibit J – Public Benefits Contract – State Water Board

Exhibit K – Land Access and Acquisition Requirements

IN WITNESS WHEREOF, the parties hereto have executed this Funding Agreement.

STATE OF CALIFORNIA  
CALIFORNIA WATER COMMISSION

<Insert Funding Recipient name>

\_\_\_\_\_  
<Insert name and title>

Executive Officer

Date\_\_\_\_\_

Approved as to Legal Form and Sufficiency

\_\_\_\_\_  
<Insert Funding Recipient Project Representative  
Name and title>

Date\_\_\_\_\_

\_\_\_\_\_  
<Insert name and title>

Counsel to the Commission

Date\_\_\_\_\_



**Exhibit A**  
**WORK PLAN**

**Exhibit B**  
**BUDGET**

**Exhibit C**  
**SCHEDULE**

## Exhibit D

### STANDARD CONDITIONS

#### D.1. ACCOUNTING AND DEPOSIT OF FUNDING DISBURSEMENT:

- A. **Separate Accounting of Funding Disbursements:** Funding Recipient shall account for the money disbursed pursuant to this Funding Agreement separately from all other Funding Recipient funds. Funding Recipient shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. Funding Recipient shall keep complete and accurate records of all receipts and disbursements on expenditures of such funds. Funding Recipient shall require its contractors or subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by State at any and all reasonable times.
- B. **Disposition of Money Disbursed:** All money disbursed pursuant to this Funding Agreement shall be deposited in a non-interest bearing account, administered, and accounted for pursuant to the provisions of applicable law.
- C. **Remittance of Unexpended Funds:** Funding Recipient shall remit to State any unexpended funds that were disbursed to Funding Recipient under this Funding Agreement and were not used to pay Eligible Project Costs within a period of sixty (60) calendar days from the final disbursement from State to Funding Recipient of funds or, within thirty (30) calendar days of the expiration of the Funding Agreement, whichever comes first.

D.2. ACKNOWLEDGEMENT OF CREDIT AND SIGNAGE: Funding Recipient shall include appropriate acknowledgement of credit to the State for its support when promoting the Project or using any data and/or information developed under this Funding Agreement. Signage shall be posted in a prominent location at Project site(s) (if applicable) or at the Funding Recipient's headquarters and shall include the Commission color logo and the following disclosure statement: "Funding for this project has been provided in full or in part from the Water Quality, Supply, and Infrastructure Improvement Act of 2014 and through an agreement with the California Water Commission." The Funding Recipient shall also include in each of its contracts for work under this Agreement a provision that incorporates the requirements stated within this Paragraph.

D.3. AMENDMENT: This Funding Agreement may be amended at any time by mutual agreement of the Parties, except insofar as any proposed amendments are in any way contrary to applicable law. Requests by the Funding Recipient for amendments must be in writing stating the amendment request and the reason for the request. State shall have no obligation to agree to an amendment.

D.4. AMERICANS WITH DISABILITIES ACT: By signing this Funding Agreement, Funding Recipient assures State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. section 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

D.5. AUDITS: State reserves the right to conduct an audit at any time between the execution of this Funding Agreement and the completion of the Project, with the costs of such audit borne by State. After completion of the Project, State may require Funding Recipient to conduct a final audit to State's specifications, at Funding Recipient's expense, such audit to be conducted by and a report prepared by an independent Certified Public Accountant. Failure or refusal by Funding Recipient to comply with this provision shall be considered a breach of this Funding Agreement, and State may elect to pursue any remedies provided in Paragraph 15 (Default Provisions) or take any other action it deems necessary to protect its interests.

Pursuant to Government Code section 8546.7, the Funding Recipient shall be subject to the examination and audit by the State for a period of three (3) years after final payment under this Funding Agreement with respect of all matters connected with this Funding Agreement, including but not limited to, the cost of administering this Funding Agreement. All records of Funding Recipient or its contractor or subcontractors shall be preserved for this purpose for at least three (3) years after receipt of the final disbursement under this Agreement. If an audit reveals any impropriety, the Bureau of State Audits or

the State Controller's Office may conduct a full audit of any or all of the Funding Recipient's activities. (Water Code section 79708(b).)

- D.6. BUDGET CONTINGENCY: If funding for any fiscal year after the current year covered by this Funding Agreement is reduced or deleted by the Budget Act, by Executive Order, or by order of the Department of Finance, the State shall have the option to either cancel this Funding Agreement with no liability occurring to State, or offer a Funding Agreement amendment to Funding Recipient to reflect the reduced amount. This provision shall be construed as a condition precedent to the obligation of State to make any payments under this Funding Agreement. In this event, State shall have no liability to pay any funds whatsoever to Funding Recipient or to furnish any other considerations under this Funding Agreement and Funding Recipient shall not be obligated to perform any provisions of this Funding Agreement. Nothing in this Funding Agreement shall be construed to provide Funding Recipient with a right of priority for payment over any other Funding Recipient.
- D.7. CALIFORNIA CONSERVATION CORPS: Funding Recipient may use the services of the California Conservation Corps or other community conservation corps as defined in Public Resources Code section 14507.5.
- D.8. CALIFORNIA ENVIRONMENTAL QUALITY ACT: Activities funded under this Funding Agreement, regardless of funding source, must be in compliance with the California Environmental Quality Act . (Public Resources Code, § section 21000 et seq.)
- D.9. CHILD SUPPORT COMPLIANCE ACT: The Funding Recipient acknowledges in accordance with Public Contract Code section 7110, that:
- A. The Funding Recipient recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Family Code section 5200 et seq.; and
  - B. The Funding Recipient, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- D.10. CLAIMS DISPUTE: Any claim that the Funding Recipient may have regarding performance of this Agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the State's Project Representative, within thirty (30) calendar days of the Funding Recipient's knowledge of the claim. State and Funding Recipient shall then attempt to negotiate a resolution of such claim and process an amendment to this Agreement to implement the terms of any such resolution.
- D.11. COMPETITIVE BIDDING AND PROCUREMENTS: Funding Recipient's contracts with other entities for acquisition of goods and services and construction of public works with funds provided by State under this Funding Agreement must be in writing. Funding Recipient shall comply with all applicable laws and regulations regarding securing competitive bids and undertaking competitive negotiations in Funding Recipient's contracts with other entities for acquisition of goods and services and construction of public works with funds provided by State under this Funding Agreement.
- If the Funding Recipient does not have a written policy to award contracts through a competitive bidding or sole source process, the Department of General Services' Contract Manual Rules must be followed and is available at the following link:  
<http://www.ols.dgs.ca.gov/ols/Resources/StateContractManual.aspx>.
- D.12. COMPUTER SOFTWARE: Funding Recipient certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Funding Agreement for the acquisition, operation, or maintenance of computer software in violation of copyright laws.
- D.13. CONFLICT OF INTEREST: All participants are subject to State and Federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Applicable statutes include, but are not limited to, Government Code section 1090 and Public Contract Code sections 10410 and 10411, for State conflict of interest requirements.

- A. Current State Employees: No State officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency, unless the employment, activity, or enterprise is required as a condition of regular State employment. No State officer or employee shall contract on his or her own behalf as an independent contractor with any State agency to provide goods or services.
  - B. Former State Employees: For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency. For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving State service.
  - C. Employees of the Funding Recipient: Employees of the Funding Recipient shall comply with all applicable provisions of law pertaining to conflicts of interest, including but not limited to any applicable conflict of interest provisions of the California Political Reform Act. (Government Code section 87100 et seq.)
  - D. Employees and Consultants to the Funding Recipient: Individuals working on behalf of a Funding Recipient may be required by the Department to file a Statement of Economic Interests (Fair Political Practices Commission Form 700) if it is determined that an individual is a consultant for Political Reform Act purposes.
- D.14. DELIVERY OF INFORMATION, REPORTS, AND DATA: Funding Recipient agrees to expeditiously provide throughout the term of this Funding Agreement, such reports, data, information, and certifications as may be reasonably required by State.
- D.15. DISPOSITION OF EQUIPMENT: Funding Recipient shall provide to State, not less than 30 calendar days prior to submission of the final invoice, an itemized inventory of equipment purchased with funds provided by State. The inventory shall include all items with a current estimated fair market value of more than \$5,000.00 per item. Within 60 calendar days of receipt of such inventory State shall provide Funding Recipient with a list of the items on the inventory that State will take title to. All other items shall become the property of Funding Recipient. State shall arrange for delivery from Funding Recipient of items that it takes title to. Cost of transportation, if any, shall be borne by State.
- D.16. DRUG-FREE WORKPLACE CERTIFICATION: Certification of Compliance: By signing this Funding Agreement, Funding Recipient, 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 section 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.
  - B. Establish a Drug-Free Awareness Program, as required by Government Code section 8355 to inform employees, contractors, or subcontractors about all of the following:
    - i. The dangers of drug abuse in the workplace,
    - ii. Funding Recipient'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, that every employee, contractor, and/or subcontractor who works under this Funding Agreement:

- i. Will receive a copy of Funding Recipient's drug-free policy statement, and
  - ii. Will agree to abide by terms of Funding Recipient's condition of employment, contract or subcontract.
- D.17. FINAL INSPECTIONS AND CERTIFICATION OF REGISTERED CIVIL ENGINEER: Upon completion of the Project, Funding Recipient shall provide for a final inspection and certification by a California Registered Civil Engineer that the Project has been completed in accordance with submitted final plans and specifications and any modifications thereto and in accordance with this Funding Agreement.
- D.18. GOVERNING LAW: This Funding Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.
- D.19. INCOME RESTRICTIONS: The Funding Recipient agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Funding Recipient under this Agreement shall be paid by the Funding Recipient to the State, to the extent that they are properly allocable to costs for which the Funding Recipient has been reimbursed by the State under this Agreement. The Funding Recipient shall also include in each of its contracts for work under this Agreement a provision that incorporates the requirements stated within this Paragraph.
- D.20. INDEMNIFICATION: Funding Recipient shall indemnify and hold and save the State, its officers, agents, and employees, free and harmless from any and all liabilities for any claims and damages (including inverse condemnation) that may arise out of the Project and this Agreement, including, but not limited to any claims or damages arising from planning, design, construction, maintenance and/or operation of this Project and any breach of this Agreement. Funding Recipient shall require its contractors or subcontractors to name the State, its officers, agents and employees as additional insureds on their liability insurance for activities undertaken pursuant to this Agreement.
- D.21. INDEPENDENT CAPACITY: Funding Recipient, and the agents and employees of Funding Recipients, in the performance of the Funding Agreement, shall act in an independent capacity and not as officers, employees, or agents of the State.
- D.22. INSPECTION OF BOOKS, RECORDS, AND REPORTS: During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this Funding Agreement or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Funding Agreement. Failure or refusal by Funding Recipient to comply with this provision shall be considered a breach of this Funding Agreement, and State may withhold disbursements to Funding Recipient or take any other action it deems necessary to protect its interests.
- D.23. INSPECTIONS OF PROJECT BY STATE: State shall have the right to inspect the work being performed at any and all reasonable times during the term of the Funding Agreement. This right shall extend to any subcontracts, and Funding Recipient shall include provisions ensuring such access in all its contracts or subcontracts entered into pursuant to its Funding Agreement with State.
- D.24. LABOR CODE COMPLIANCE: The Funding Recipient agrees to be bound by all the provisions of the Labor Code regarding prevailing wages and shall monitor all contracts subject to reimbursement from this Agreement to assure that the prevailing wage provisions of the Labor Code are being met. Current Department of Industrial Relations (DIR) requirements may be found at: <https://www.dir.ca.gov/lcp.asp>. For more information, please refer to DIR's *Public Works Manual* at: <https://www.dir.ca.gov/dlse/PWManualCombined.pdf>.  
  
The Funding Recipient affirms that it is aware of the provisions of section 3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance, and the Funding Recipient affirms that it will comply with such provisions before commencing the performance of the work under this Agreement and will make its contractors and subcontractors aware of this provision.
- D.25. MODIFICATION OF OVERALL WORK PLAN: At the request of the Funding Recipient, the State may at its sole discretion approve non-material changes to the portions of Exhibit A (Work Plan) which concern the budget (Exhibit B) and schedule (Exhibit C) without formally amending this Funding Agreement. Non-material changes with respect to the budget are changes that only result in reallocation of the

budget and will not result in an increase in the amount of the State Funding Agreement. Non-material changes with respect to the Project schedule are changes that will not extend the term of this Funding Agreement. Requests for non-material changes to the budget and schedule must be submitted by the Funding Recipient to the State in writing and are not effective unless and until specifically approved by the State's Program Manager in writing.

- D.26. **NONDISCRIMINATION:** During the performance of this Funding Agreement, Funding Recipient and its contractors or subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), marital status, and denial of medial and family care leave or pregnancy disability leave. Funding Recipient and its contractors or subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Funding Recipient and its contractors or subcontractors shall comply with the provisions of the California Fair Employment and Housing Act (Government Code section 12990.) and the applicable regulations promulgated there under (California Code of Regulations, title 2, section 11000 et seq.). The applicable regulations of the Fair Employment and Housing are incorporated into this Agreement by reference. Funding Recipient and its contractors or subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- Funding Recipient shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Funding Agreement.
- D.27. **OPINIONS AND DETERMINATIONS:** Where the terms of this Funding Agreement provide for action to be based upon, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.
- D.28. **PERFORMANCE BOND:** Where contractors are used, the Funding Recipient shall not authorize construction to begin until each contractor has furnished a performance bond in favor of the Funding Recipient in the following amounts: faithful performance (100%) of contract value, and labor and materials (100%) of contract value. This requirement shall not apply to any contract for less than \$25,000.00. Any bond issued pursuant to this paragraph must be issued by a California-admitted surety. (Public Contract Code section 7103; Code of Civil Procedure section 995.311.)
- D.29. **PRIORITY HIRING CONSIDERATIONS:** If this Funding Agreement includes services in excess of \$200,000, the Funding Recipient shall give priority consideration in filling vacancies in positions funded by the Funding Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with Public Contract Code section 10353.
- D.30. **PROHIBITION AGAINST DISPOSAL OF PROJECT WITHOUT STATE PERMISSION:** The Funding Recipient shall not sell, abandon, lease, transfer, exchange, mortgage, hypothecate, or encumber in any manner whatsoever all or any portion of any real or other property necessarily connected or used in conjunction with the Project, or with Funding Recipient's service of water, without prior permission of State. Funding Recipient shall not take any action, including but not limited to actions relating to user fees, charges, and assessments that could adversely affect the ability of Funding Recipient meet its obligations under this Funding Agreement, without prior written permission of State. State may require that the proceeds from the disposition of any real or personal property be remitted to State.
- D.31. **PROJECT ACCESS:** The Funding Recipient shall ensure that the State, the Governor of the State, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times during the Term of this Agreement.
- D.32. **REMEDIES NOT EXCLUSIVE:** The use by either party of any remedy specified herein for the enforcement of this Funding Agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.
- D.33. **RETENTION:** The State shall withhold ten percent (10%) of the funds requested by the Funding Recipient for reimbursement of Eligible Project Costs. Withheld funds may be released upon either completion of milestones or deliverables identified in Exhibit A (Work Plan) or when the Project is completed, and the

Final Report is approved by the State. Any retained amounts due to the Funding Recipient will be promptly disbursed to the Funding Recipient, without interest, upon completion of the Project.

- D.34. RIGHTS IN DATA: Funding Recipient agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes and other written or graphic work produced in the performance of this Funding Agreement shall be made available to the State and shall be in the public domain to the extent to which release of such materials is required under the California Public Records Act. (Government Code section 6250 et seq.) Funding Recipient may disclose, disseminate and use in whole or in part, any final form data and information received, collected and developed under this Funding Agreement, subject to appropriate acknowledgement of credit to State for financial support. Funding Recipient shall not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so. The State shall have the right to use any data described in this paragraph for any public purpose.
- D.35. SEVERABILITY: Should any portion of this Funding Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Funding Agreement shall continue as modified.
- D.36. SUSPENSION OF PAYMENTS: This Funding Agreement may be subject to suspension of payments or termination, or both if the State determines that:
- A. Funding Recipient, its contractors, or subcontractors have made a false certification, or
  - B. Funding Recipient, its contractors, or subcontractors violates the certification by failing to carry out the requirements noted in this Funding Agreement.
- D.37. SUCCESSORS AND ASSIGNS: This Funding Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties. No assignment or transfer of this Funding Agreement or any part thereof, rights hereunder, or interest herein by the Funding Recipient shall be valid unless and until it is approved by State and made subject to such reasonable terms and conditions as State may impose.
- D.38. TERMINATION BY FUNDING RECIPIENT: Subject to State approval which may be reasonably withheld, Funding Recipient may terminate this Agreement and be relieved of contractual obligations. In doing so, Funding Recipient must provide a reason(s) for termination. Funding Recipient must submit all progress reports summarizing accomplishments up until termination date.
- D.39. TERMINATION FOR CAUSE: Subject to the right to cure under Paragraph 15 (Default Provisions), the State may terminate this Funding Agreement and be relieved of any payments should Funding Recipient fail to perform the requirements of this Funding Agreement at the time and in the manner herein, provided including but not limited to reasons of default under Paragraph 15 (Default Provisions).
- D.40. TERMINATION WITHOUT CAUSE: The State may terminate this Agreement without cause on 30 calendar days' advance written notice. The Funding Recipient shall be reimbursed for all reasonable expenses incurred up to the date of termination.
- D.41. THIRD PARTY BENEFICIARIES: The parties to this Agreement do not intend to create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or any duty, covenant, obligation or understanding established herein.
- D.42. TIMELINESS: Time is of the essence in this Funding Agreement.
- D.43. UNION ORGANIZING: Funding Recipient, by signing this Funding Agreement, hereby acknowledges the applicability of Government Code sections 16645 through 16649 to this Funding Agreement. Furthermore, Funding Recipient, by signing this Funding Agreement, hereby certifies that:
- A. No State funds disbursed by this Funding Agreement will be used to assist, promote, or deter union organizing.
  - B. Funding Recipient shall account for State funds disbursed for a specific expenditure by this Funding Agreement to show those funds were allocated to that expenditure.
  - C. Funding Recipient shall, where State funds are not designated as described in (b) above, allocate, on a pro rata basis, all disbursements that support the program.

If Funding Recipient makes expenditures to assist, promote, or deter union organizing, Funding Recipient will maintain records sufficient to show that no State funds were used for those expenditures and that Funding Recipient shall provide those records to the Attorney General upon request.

- D.44. VENUE: The State and the Funding Recipient hereby agree that any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California, or in the United States District Court in and for the Eastern District of California. The Funding Recipient hereby waives any existing sovereign immunity for the purposes of this Agreement.
- D.45. WAIVER OF RIGHTS: None of the provisions of this Funding Agreement shall be deemed waived unless expressly waived in writing. It is the intention of the parties here to that from time to time either party may waive any of its rights under this Funding Agreement unless contrary to law. Any waiver by either party of rights arising in connection with the Funding Agreement shall not be deemed to be a waiver with respect to any other rights or matters, and such provisions shall continue in full force and effect.



**Exhibit E**

**AUTHORIZING RESOLUTION ACCEPTING FUNDS**

## Exhibit F

### REPORT FORMATS AND REQUIREMENTS

The following reporting formats should be utilized. Please obtain State approval prior to submitting a report in an alternative format.

#### PROGRESS REPORTS

Progress reports shall generally use the following format. This format may be modified as necessary to effectively communicate information.

##### PROJECT STATUS

For each project, describe the work performed during the time period covered by the report including but not limited to:

##### PROJECT INFORMATION

- Legal matters
- Engineering Evaluations
- Environmental matters
- Status of permits, easements, rights-of-way, rights of entry and approvals as may be required by other State, federal, and/or local agencies
- Major accomplishments during the reporting period (i.e. tasks completed, milestones met, meetings held or attended, press releases, etc.)
- Issues/concerns that have, will, or could affect the schedule or budget, with a recommendation on how to correct the matter
- Describe differences between the work performed and the work outlined in the Overall Work Plan, including change orders
- Demonstrate financial ability to pay Non-Program Cost Share of Eligible Project Costs required to complete the Project
- Estimate the percentage completion of the overall project
- Identify key issues that need to be resolved
- Photos documenting progress

##### COST INFORMATION

- Provide a list showing all project costs incurred during the time period covered by the report by the Funding Recipient and each contractor working on the project and which of these costs are Eligible Project Costs
- A discussion on how the actual budget is progressing in comparison to the project budget included in Exhibit B (Budget)
- A list of any changes approved to the budget in accordance with Funding Agreement and a revised budget, by task, if changed from latest budget in Exhibit B (Budget)
- A discussion of whether there have been any changes to the Funding Recipient's finance plan for payment of the Funding Recipient's share of Eligible Project Costs

##### SCHEDULE INFORMATION

- A schedule showing actual progress versus planned progress
- A discussion on how the actual schedule is progressing in comparison to the original or last reported schedule
- A list of any changes approved to the Schedule in accordance with Funding Agreement and a revised schedule, by task, if changed from latest reported schedule

**BIENNIAL COST AND DISPOSITION OF FUNDS REPORT** <Include if project construction period is >5 years>

- A summary table of invoices showing:
  - The date each invoice was submitted to State
  - The amount of the invoice
  - The date the payment was received
  - The amount of the payment (If a payment has not been received for the most recent invoice, then state so.)
- A discussion of factors that positively or negatively affected the project cost and any deviation from the original project cost estimate.

**PROJECT COMPLETION REPORT**

Project Completion Reports shall generally use the following format.

EXECUTIVE SUMMARY – Should include a brief summary of project information and include the following items:

- Brief description of work proposed to be done in the original application
- Description of actual work completed and any deviations from the work plan identified in the Funding Agreement

REPORTS AND/OR PRODUCTS – The following items should be provided:

- Final Evaluation report
- Electronic copies of any data collected, not previously submitted, along with summarized tables and graphs
- As-built drawings
- Final geodetic survey information
- Self-Certification that the Project was completed in accordance with the final plans and specifications as defined in the Funding Agreement. Also discuss whether the project was completed in a manner that will result in the quantity and quality of public benefits, commiserate with the investment of Program funds.
- Project photos
- Discussion of problems that occurred during the work and how those problems were resolved
- A final project schedule showing actual progress versus planned progress

COSTS AND DISPOSITION OF FUNDS – For the period covering the last Biennial Costs and Disposition of Funds to Project completion, provide: <Modify preceding sentence if construction period is <5 years>

- A summary table of invoices showing:
  - The date and amount of each invoice submitted to State
  - The date the payment was received
  - The amount of the payment (If a payment has not been received for the final invoice, then state so.)
- A discussion of factors that positively or negatively affected the project cost and any deviation from the original project cost estimate.

ADDITIONAL INFORMATION – The items below, along with any relevant additional Information should be included.

- List of Deliverables
- List of Sub-contractors

## Exhibit G

### STATE AUDIT DOCUMENT REQUIREMENTS

The following provides a list of documents typically required by State Auditors and general guidelines for Funding Recipients. List of documents pertains to both State funding and Funding Recipient's Funding Match and details the documents/records that State Auditors would need to review in the event of this Funding Agreement is audited. Funding Recipients should ensure that such records are maintained for each funded project.

#### Internal Controls

1. Organization chart (e.g., Agency's overall organization chart and organization chart for the State funded Program/Project).
2. Written internal procedures and flowcharts for the following:
  - a) Receipts and deposits
  - b) Disbursements
  - c) State reimbursement requests
  - d) Expenditure tracking of State funds
  - e) Guidelines, policy, and procedures on State funded Program/Project
3. Audit reports of the Agency internal control structure and/or financial statements within the last two years.
4. Prior audit reports on the State funded Program/Project.

#### State Funding:

1. Original Funding Agreement, any amendment(s) and budget modification documents.
2. A listing of all bond-funded grants, loans, or subventions received from the State.
3. A listing of all other funding sources for each Program/Project.

#### Contracts:

1. All subcontractor and consultant contracts and related or partners' documents, if applicable.
2. Contracts between the Agency and member agencies as related to the State funded Program/Project.

#### Invoices:

1. Invoices from vendors and subcontractors for expenditures submitted to the State for payments under the Funding Agreement.
2. Documentation linking subcontractor invoices to State reimbursement, requests and related Funding Agreement budget line items.
3. Reimbursement requests submitted to the State for the Funding Agreement.

#### Cash Documents:

1. Receipts (copies of warrants) showing payments received from the State.
2. Deposit slips (or bank statements) showing deposit of the payments received from the State.
3. Cancelled checks or disbursement documents showing payments made to vendors, subcontractors, consultants, and/or agents under the grants or loans.
4. Bank statements showing the deposit of the receipts.

#### Accounting Records:

1. Ledgers showing entries for funding receipts and cash disbursements.
2. Ledgers showing receipts and cash disbursement entries of other funding sources.
3. Bridging documents that tie the general ledger to requests for Funding Agreement reimbursement.

#### Administration Costs:

1. Supporting documents showing the calculation of administration costs.

#### Personnel:

1. List of all contractors and Agency staff that worked on the State funded Program/Project.
2. Payroll records including timesheets for contractor staff and the Agency personnel who provided services charged to the program

#### Project Files:

1. All supporting documentation maintained in the project files.
2. All Funding Agreement related correspondence.

**Exhibit H**

**PUBLIC BENEFITS CONTRACT – DEPARTMENT OF FISH AND WILDLIFE**

**Exhibit I**

**PUBLIC BENEFITS CONTRACT – DEPARTMENT OF WATER RESOURCES**

**Exhibit J**

**PUBLIC BENEFITS CONTRACT – STATE WATER BOARD**

## Exhibit K

### Land Access and Acquisition Requirements

This exhibit provides direction and guidance regarding the supporting documentation that is necessary for disbursement of State funds for eligible costs related to the land access and acquisition.

- K.1 **Appraisal Specifications:** For property acquisitions funded this Funding Agreement, the Funding Recipient must submit an appraisal for review and approval by the Department of General Services or the Department of Water Resources's Real Estate Branch prior to reimbursement or depositing State funds into an escrow account. All appraisal reports, regardless of report format, must include all applicable Appraisal Specifications below. Appraisals for a total compensation of \$150,000 or more shall be reported as a Self-Contained Appraisal Report. Appraisals for a total compensation of less than \$150,000 may be reported as a Summary Appraisal Report, which includes all information necessary to arrive at the appraiser's conclusion. Appraisal Specifications 14, 16, 21, 23-25, and 28 shall be narrative analysis regardless of the reporting format.
- 1) Title page with sufficient identification of appraisal assignment.
  - 2) Letter of transmittal summarizing important assumptions and conclusions, value estimate, date of value and date of report.
  - 3) Table of contents.
  - 4) Assumptions and Limiting Conditions, Extraordinary Assumptions, and Hypothetical Conditions as needed.
  - 5) Description of the scope of work, including the extent of data collection and limitations, if any, in obtaining relevant data.
  - 6) Definition of Fair Market Value, as defined by Code of Civil Procedure, section 1263.320.
  - 7) Photographs of subject property and comparable data, including significant physical features and the interior of structural improvements, if applicable.
  - 8) Copies of Tax Assessor's plat map with the subject marked along with all contiguous assessor's parcels that depict the ownership.
  - 9) A legal description of the subject property, if available.
  - 10) For large, remote or inaccessible parcels, provide aerial photographs or topographical maps depicting the subject boundaries.
  - 11) Three-year subject property history, including sales, listings, leases, options, zoning, applications for permits, or other documents or facts that might indicate or affect use or value.
  - 12) Discussion of any current Agreement of Sale, option, or listing of subject property. This issue required increased diligence since state agencies often utilize non-profit organizations to quickly acquire sensitive-habitat parcels using Option Agreements. However, due to confidentiality clauses, the terms of the Option are often not disclosed to the state. If the appraiser discovers evidence of an Option or the possible existence of an Option, and the terms cannot be disclosed due to a confidentiality clause, then the appraiser is to cease work and contact the client.
  - 13) Regional, area, and neighborhood analyses. This information may be presented in a summary format.
  - 14) Market conditions and trends including identification of the relevant market area, a discussion of supply and demand within the relevant market area, and a discussion of the relevant market factors impacting demand for site acquisition and leasing within the relevant market area. This information may be presented in a summary format.
  - 15) Discussion of subject land/site characteristics (size, topography, current use, elevations, zoning and land use issues, development entitlements, General Plan designation, utilities, offsite improvements, access, land features such as levees and creeks, offsite improvements, easements and encumbrances, covenants, conditions and restrictions, flood and earthquake information, toxic hazards, water rights, mineral rights, toxic hazards, taxes and assessments, etc.).

- 16) Description of subject improvements including all structures, square footage, physical age, type of construction, quality of construction, condition of improvements and/or identification of any permanent plantings. Discussion of construction cost methodology, costs included and excluded, accrued depreciation from all causes, remaining economic life, items of deferred maintenance and cost to cure, and incurable items. Construction cost data must include cost data source, date of estimate or date of publication of cost manual, section and page reference of cost manual, copies of cost estimate if provided from another source, replacement or reproduction cost method used, and supporting calculations including worksheets or spreadsheets.
- 17) Subject property leasing and operating cost history, including all items of income and expense.
- 18) Analysis and conclusion of the larger parcel for partial taking appraisals. For partial taking appraisals, Appraisal Specifications generally apply to the larger parcel rather than an ownership where the larger parcel is not the entire ownership.
- 19) Include a copy of a recent preliminary title report (within the past year) as an appraisal exhibit. Discuss the title exceptions and analyze the effect of title exceptions on fair market value.
- 20) For appraisals of partial takings or easements, a detailed description of the taking or easement area including surface features and topography, easements, encumbrances or improvements including levees within the subject partial take or easement, and whether the take area is characteristic of the larger parcel. Any characteristics of the taking area, including existing pre-project levees that render the take area different from the larger parcel must be addressed in the valuation.
- 21) Opinion of highest and best use for the subject property, based on an in depth analysis supporting the concluded use which includes the detail required by the complexity of the analysis. Such support typically requires a discussion of the four criteria of tests utilized to determine the highest and best use of a property. If alternative feasible uses exist, explain and support market, development, cash flow, and risk factors leading to an ultimate highest and best use decision.
- 22) All approaches to market value applicable to the property type and in the subject market. Explain and support the exclusion of any usual approaches to value.
- 23) Map(s) showing all comparable properties in relation to the subject property.
- 24) Photographs and plat maps of comparable properties.
- 25) In depth discussion of comparable properties, similarities and differences compared to the subject, adjustments to the comparable data, and discussion of the reliability and credibility of the data as it relates to the indicated subject property value. Improved comparable sales which are used to compare to vacant land subject properties must include an allocation between land and improvements, using methodology similar to methodology used in item 16 above to estimate improvement value when possible, with an explanation of the methodology used.
- 26) Comparable data sheets.
  - i) For sales, include information on grantor/grantee, sale/recordation dates, listed or asking price as of the date of sale, highest and best use, financing, conditions of sale, buyer motivation, sufficient location information (street address, post mile, and/or distance from local landmarks such as bridges, road intersections, structures, etc.), land/site characteristics, improvements, source of any allocation of sale price between land and improvements, and confirming source.
  - ii) For listings, also include marketing time from list date to effective date of the appraisal, original list price, changes in list price, broker feedback, if available.
  - iii) For leases, include significant information such as lessor/lessee, lease date and term, type of lease, rent and escalation, expenses, size of space leased, tenant improvement allowance, concessions, use restrictions, options, and confirming source. When comparing improved sales to a vacant land subject, the contributory value of the improvements must be segregated from the land value.
- 27) For appraisals of easements, a before and after analysis of the burden of the easement on the fee, with attention to how the easement affects highest and best use in the after condition. An Easement

Valuation Matrix or generalized easement valuation references may be used ONLY as a reference for a secondary basis of value.

- 28) For partial taking and easement appraisals, valuation of the remainder in the after condition and analysis and identification of any change in highest and best use or other characteristics in the after condition, to establish severance damages to the remainder in the after condition, and a discussion of special and general benefits, and cost to cure damages or construction contract work.
  - 29) There are occasions where properties involve water rights, minerals, or salable timber that require separate valuations. If an appraisal assignment includes water rights, minerals, or merchantable timber that requires separate valuation, the valuation of the water rights, minerals, or merchantable timber must be completed by a credentialed subject matter specialist.
  - 30) For partial taking and easement appraisals, presentation of the valuation in California partial taking acquisition required format.
  - 31) Implied dedication statement.
  - 32) Reconciliation and final value estimate. Include analysis and comparison of the comparable sales to the subject, and explain and support conclusions reached.
  - 33) Discussion of any departures taken in the development of the appraisal.
  - 34) Signed Certification consistent with the language found in Uniform Standards of Professional Appraisal Practice.
  - 35) If applicable, in addition to the above, appraisals of telecommunication sites must also provide:
    - i) A discussion of market conditions and trends including identification of the relevant market, a discussion of supply and demand within the relevant market area and a discussion of the relevant market factors impacting demand for site acquisition and leasing within the relevant market area.
    - ii) An analysis of other (ground and vault) leases comparable to subject property. Factors to be discussed in the analysis include the latitude, longitude, type of tower, tower height, number of rack spaces, number of racks occupied, placement of racks, power source and adequacy, back-up power, vault and site improvements description and location on site, other utilities; access, and road maintenance costs.
- K.2 Escrow Processing and Closure: The Funding Recipient must provide the following documents to the State Project Representative during the escrow process. Property acquisition escrow documents must be submitted within the term of this Funding Agreement and after a qualified appraisal has been approved.
- a. Name and Address of Title Company Handling the Escrow
  - b. Escrow Number
  - c. Name of Escrow Officer
  - d. Escrow Officer's Phone Number
  - e. Dollar Amount Needed to Close Escrow
  - f. Legal Description of Property Being Acquired
  - g. Assessor's Parcel Number(s) of Property Being Acquired
  - h. Copy of Title Insurance Report
  - i. Entity Taking Title as Named Insured on Title Insurance Policy
  - j. Copy of Escrow Instructions in Draft Form Prior to Recording for Review Purposes
  - k. Copy of Final Escrow Instructions
  - l. Verification that all Encumbrances (Liens, Back Taxes, and Similar Obligations) have been Cleared Prior to Recording the Deed to Transfer Title
  - m. Copy of Deed for Review Purposes Prior to Recording



- n. Copy of Deed as Recorded in County Recorder's Office
- o. Copy of Escrow Closure Notice