

Drought Emergency Grant
Funding Agreement No. PDE-13013

STATE OF CALIFORNIA

HEALTH AND HUMAN SERVICES AGENCY
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH

FUNDING AGREEMENT
BETWEEN
THE STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH
AND
REDWOOD VALLEY COUNTY WATER DISTRICT

PROJECT NUMBER PDE-2310008-001

FOR A GRANT UNDER THE PUBLIC WATER SYSTEM DROUGHT EMERGENCY
RESPONSE PROGRAM

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FOR A GRANT UNDER THE PUBLIC WATER SYSTEM DROUGHT EMERGENCY
RESPONSE PROGRAM

This agreement ("Agreement") is entered into by and between the State of California Department of Public Health herein referred to as "State", and **Redwood Valley County Water District**, a **public agency**, in the County of **Mendocino**, State of California, duly organized, existing, and acting pursuant to the laws thereof, herein referred to as "Supplier", which parties do hereby agree as follows:

SECTION 1. PURPOSE OF FUNDING

This Agreement provides funding in the form of a grant made by State to Supplier pursuant to Senate Bill 103 (Chapter 2, Statutes of 2014) herein referred to as the "Act". and implementing guidelines. The purpose of the grant is to provide funding for a project which will enable Supplier to take action in response to a drought-related drinking water emergency or threatened emergency, which action is more fully described in Exhibit B to this Agreement and is herein referred to as the "Project". Funds may be used only for such eligible project costs as are approved by State.

Supplier is solely responsible for the design, construction, operation, and maintenance of the Project; and for all persons or entities engaged in such work, including but not limited to contractors, subcontractors, suppliers, and providers of services. Review or approval of plans, specifications, bid documents or other Project related documents by State is solely for the

purpose of proper administration of the funds by State and shall not be deemed to relieve or restrict Supplier's responsibility.

SECTION 2. INCORPORATION OF OTHER DOCUMENTS

This Agreement incorporates by this reference Exhibit A, "Standard Conditions" and Exhibit B "Special Terms and Conditions" and Supplier's request to State for funding under the Act.

Supplier accepts and agrees to comply with all terms, provisions, and condition of this Agreement, including all incorporated documents and exhibits thereto, and to fulfill all assurances, declarations, representations, and statements made by Supplier in its request for funding, including but not limited to any and all plans and specifications submitted to and approved by State.

SECTION 3. PROJECT COST

Supplier represents that the total cost of the Project is estimated to be **\$379,400**.

SECTION 4. GRANT FUNDING

Subject to the availability of funds and in accordance with the terms of this Agreement, State will provide grant funding to Supplier in an amount not to exceed **\$379,400**.

SECTION 5. SUPPLIER'S COST

Supplier agrees to fund any project costs which are in excess of the grant funding, set forth in Section 4, in order to assure a fully funded project; such project costs are herein referred to as "Supplier's Cost." Supplier represents and acknowledges it has access to **\$0** of other available funds for the Project; and Supplier agrees that State shall have no duty to disburse funds under the terms of this Agreement until Supplier demonstrates it has incurred, or will incur, not less than **\$0** of Supplier's Cost for eligible project costs.

SECTION 6. SPECIAL TERMS AND CONDITIONS

Supplier shall satisfy the special terms and conditions set forth in Exhibit B. Failure by Supplier to timely satisfy the special terms and conditions may, at the option of State, result in cancellation of this Agreement under Article A-7 of the Standard Conditions, and/or declaration that Supplier is in default pursuant to Article A-24 of the Standard Conditions.

SECTION 7. PROJECT OFFICIALS AND NOTICES

State's Grant Administrator shall be the Chief, Drinking Water Technical Programs Branch, Division of Drinking Water and Environmental Management, California Department of Public Health. All communications given to State's Grant Administrator shall be deemed given to State.

State's Grant Administrator shall be State's representative for administration of this Agreement, and shall have authority to make recommendations and findings with respect to each controversy arising under or in connection with this Agreement. All such recommendations and findings shall be communicated to the Chief, Division of Drinking Water and Environmental Management of the California Department of Public Health, and disputes shall be resolved in accordance with Article A-22 of the Standard Conditions.

Supplier's Grant Administrator shall be its **General Manager**. Supplier's Grant Administrator shall be Supplier's representative for administration of this Agreement. All communications given to Supplier's Grant Administrator shall be deemed given to Supplier.

Either party may change its Grant Administrator upon written notice to the other party.

Notices required to be given in writing by Supplier under this Agreement shall be sent to:

State of California
California Department of Public Health
Division of Drinking Water and
Environmental Management
Attention: PWS Drought Emergency Response Program
1616 Capitol Avenue, MS 7408
Post Office Box 997377
Sacramento 95899-7377

Notices required to be given in writing by State under this Agreement shall be sent to:

Redwood Valley County Water District
Attn: Bill Koehler, General Manager
2370 Webb Ranch Road
Redwood Valley, CA 95470

A change of address for delivery of notice may be given by written notice to the other party.

All written notices that are required either expressly or by implication to be given by one party to the other under this Agreement shall be signed for State by its Grant Administrator and for Supplier by its Grant Administrator. Except as otherwise expressly required by this Agreement, all such notices shall be deemed to have been given if delivered personally or if

enclosed in a properly addressed postage-prepaid envelope and deposited in a United States Post Office for delivery by registered or certified mail.

SECTION 8. MISCELLANEOUS PROVISIONS

ATTORNEY FEES

In the event either party commences an action or proceeding concerning the subject matter of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover reasonable attorney fees incurred therein.

SEVERABILITY

If any provision of this Agreement is held invalid or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable, and binding on the parties.

GOVERNING LAW

This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

CHILD SUPPORT COMPLIANCE ACT

Supplier acknowledges that it is the policy of this state that anyone who enters into a contract with a state agency shall recognize 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 Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code. Supplier further acknowledges that to the best of its knowledge it 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 Employment Development Department.

LEGAL CAPACITY

Supplier hereby warrants and represents that it is a legal entity in good standing and has the authority to enter into this Agreement.

Supplier shall notify State as promptly as feasible of any proposed change in Supplier's ownership, organization, legal form or service area.

VENUE

The parties agree that venue of any action between the parties arising out of this Agreement, including disputes that may arise following termination of the Agreement, shall be County of Sacramento, State of California.

DATE OF EXECUTION

Date of Execution of this Agreement is the date of the latest in time execution by a party hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

Approved as to Legal Form
and Sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH

By J. L. L.

By _____

JERRI L. SWOYER
Print Name

Print Name

SENIOR STAFF COUNSEL
Title

Title

California Department of Public Health

Date

JUNE 19, 2014
Date

SUPPLIER
REDWOOD VALLEY COUNTY WATER
DISTRICT

By _____
Signature

Print Name

Title

Address

City, State, Zip

Date

EXHIBIT A

STANDARD CONDITIONS

ARTICLE A-1. DEFINITIONS

Whenever in this Agreement the following terms are used, their meaning shall be as follows unless the context clearly requires otherwise:

Agreement --The Funding Agreement to which this Exhibit A "Standard Conditions" is appended.

Days--Calendar days unless otherwise expressly indicated.

Month--Calendar month unless otherwise expressly indicated.

Year--Calendar year unless otherwise expressly indicated.

Eligible Project Costs--Those project costs which are eligible for funding under the Act and applicable State law and implementing guidelines.

Force Account--The use of Supplier's own employees or equipment on the Project.

Grant Amount--The total amount disbursed to Supplier under this Agreement.

Public Water System -- has the meaning set forth in Part 12, Chapter 4 (commencing with Section 116270), of Division 104 of the Health and Safety Code, as it may be amended.

ARTICLE A-2. TERM OF AGREEMENT

Subject to the provisions of Article A-7, this Agreement shall become effective on the date of its execution and shall remain in effect until **six (6) months** following the Project Completion Date set forth in Article A-8; and such period of time shall be the Term of this Agreement.

ARTICLE A-3. BASIC CONDITIONS PRECEDENT

State shall have no obligation to disburse funds under this Agreement unless and until:

- (a) Supplier has provided satisfactory documentation of the action taken by its governing body authorizing it to enter into this Agreement, and designating a representative to execute this Agreement and to sign claim(s) for disbursement of funds (**Attachment 1** of this Agreement).
- (b) Supplier has submitted to State an Initial Budget and Expenditure Summary in substantially the form of **Attachment 2** to this Agreement.

ARTICLE A-4. COMPLIANCE WITH LAWS, REGULATIONS, AND PERMIT REQUIREMENTS

Supplier shall at all times comply with, and require its contractors and subcontractors to comply with, all applicable federal and state laws, rules and regulations, permits, and all applicable local ordinances, including, but not limited to, environmental, labor, procurement and safety laws, rules, regulations, permits, and ordinances.

ARTICLE A-5. PROJECT CHANGES

The Project shall be carried out in accordance with the Project Description set forth in Exhibit B to this Agreement and the Budget and Expenditure Summary required by Article A-3(b) of this Agreement. Supplier shall not make any change in the Project without receiving prior written approval from State.

ARTICLE A-6. DISBURSEMENTS BY STATE

(a) Claims

Supplier shall request disbursement by submitting to State a claim(s) for incurred Project costs. A claim for disbursement of funds shall be provided in the form of **Attachment 3** to this Agreement.

(b) Disbursements

Following the review and approval of a claim by State, it will disburse to Supplier an approved amount, subject to any retention requirements specified in Exhibit B, Special Terms and Conditions, and subject to the availability of funds. Any and all funds disbursed to Supplier under this Agreement, and any and all interest earned by Supplier on such funds, shall be used solely to pay Eligible Project Costs.

(c) Rejection of Claims

A claim may be rejected by State if:

- (1) it is submitted without signature;
- (2) it is submitted under signature of a person other than Supplier's duly authorized representative;
- (3) Supplier fails to timely submit a final claim within the time period specified in Article A-6(f);

State will notify Supplier of any claim so rejected, and the reasons therefore.

(d) Correction of Claims

A claim containing a mathematical error will be corrected by State, after telephone notification to Supplier, and will thereafter be treated as if submitted in the corrected amount. State will confirm correction of the error, to Supplier, in writing.

(e) Adjustments to Claims

If upon review of a claim State determines that any portion or portions of the costs claimed are ineligible to be funded under the Act, State law, implementing criteria, or the terms of this Agreement, State will notify Supplier, by certified or registered mail, of its determination concerning Supplier's failure to adequately document costs as Eligible Project Costs. Supplier may, within thirty (30) days of the date of receipt of such notice, submit additional documentation or evidence to cure such deficiency(ies). If Supplier does not submit additional information, or if State determines such additional information to be inadequate, State will adjust the pending claim by the amount of the ineligible cost(s).

Supplier may submit additional documentation or evidence, and resubmit any such rejected costs on a subsequent claim.

(f) Final Claim and Disbursement

Not later than two (2) months from the Project Completion Date, as set forth in Article A-8, Supplier shall submit a final claim. With the final claim, Supplier shall provide:

- (1) A statement of full written disclosure of all sources and amounts of funds contributed to the Project;

- (2) A certification by Supplier's Grant Administrator that the data disclosed is true and correct;
- (3) Proof of a Recorded Notice of Completion for all Project construction activities;
- (4) A fully executed "Final Release" in the form of **Attachment 4** to this Agreement.

Should Supplier fail to make the full disclosure and certification required by parts 1 and 2 of this paragraph (f), or should State become aware through any means that Supplier did not disclose all funding sources for the project; the project may be referred to the California Department of Finance for a full project audit.

(g) Force Account

Costs of construction or construction related activities, engineering, legal, and administrative activities performed by Force Account, if determined by State, in its sole discretion, to be Eligible Project Costs, may be eligible for grant funding pursuant to the terms of this Agreement.

When Supplier uses the services of its own employees, Supplier shall establish accounts and maintain records which reasonably document all employee hours and costs charged to the Project and the associated tasks performed by each employee.

ARTICLE A-7. WITHHOLDING OF GRANT DISBURSEMENTS BY STATE AND
CANCELLATION OF AGREEMENT

(a) Conditions for Withholding

If State determines that the Project is not being carried out substantially in accordance with the provisions of this Agreement or that Supplier has failed in any other respect to comply with the terms and conditions of this Agreement, State may give written notice of such failure to comply. If Supplier does not cure any such failure to State's satisfaction within ten (10) calendar days of receipt of such notice, State may withhold from the Supplier all or any portion of the grant funding and take any other action that it deems necessary to protect its interests, including but not limited to declaring Supplier in default as set forth in Article A-24, or canceling this Agreement pursuant to Subpart (b) of this Article A-7.

(b) Withholding Entire Grant Amount

If State determines to withhold the entire Grant Amount from Supplier pursuant to Subpart (a) of this Article A-7, notice of such a determination shall constitute a notice of cancellation of this Agreement, and this Agreement shall no longer be binding on any party hereto. Said Notice of Cancellation shall be sent to Supplier by certified or registered mail, and shall be effective upon receipt.

(c) Withholding Balance of Grant Amount

When a portion of the grant amount has been disbursed to Supplier and State determines to withhold funding, State will notify Supplier in writing, via certified or registered mail, that State is withholding the balance of the funding from Supplier, pursuant to Subpart (a) of this Article A-7. In such event, Supplier will be deemed to be in default and subject to the provisions of Article A-24.

ARTICLE A-8. TIMING OF PROJECT

(a) Supplier agrees to proceed expeditiously, and shall:

(1) commence the Project no later than **thirty (30) days** from the Date of Execution of this Agreement; and

(2) meet a Project Completion Date of no later than **ninety (90) days** from the Date of Execution of this Agreement.

(b) Supplier's failure to timely commence the Project or to meet said Project Completion Date may, at the option of State, be considered a material breach of agreement and may be treated as a default under Article A-24. The facility shall not be placed into operation until State has conducted a final inspection and notifies Supplier in writing that the Project is complete.

(c) When the Project is complete, Supplier shall certify to State that the Project is complete in accordance with the Project description set forth in Article B-2 of Exhibit B, hereto, and any approved plans and specifications, and is ready for final inspection by State. The date of such certification by Supplier shall be the Project Completion Date for purposes of this Agreement.

ARTICLE A-9. SUPPLIER'S CONTRACTS

Supplier shall be solely responsible for resolution of any and all disputes arising out of or related to Supplier's construction and contracts for construction of the Project, including but not limited to bid disputes and payment disputes with Supplier's

contractors and subcontractors and shall provide appropriate releases (as set forth in California Civil Code Title 15) as may be requested by State.

ARTICLE A-10. AUDIT AND INSPECTION OF BOOKS AND RECORDS

- (a) Upon execution of this Agreement and until 3 years following final disbursement under this Agreement, pursuant to Government Code Section 8546.7, the parties shall be subject to the examination and audit by State or any agent thereof, and the State Auditor, with respect to all matters connected with the performance of this Agreement, including, but not limited to, the cost of administering this Agreement. If any litigation, claim, negotiation, audit or other action is commenced before the expiration of said three (3) year period, all records must be retained until such action is resolved, or until the end of said three (3) year period whichever shall later occur. All records of Supplier relating in any way to funding received pursuant to this Agreement shall be preserved for this purpose.
- (b) 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 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 Agreement. Failure or refusal by Supplier to comply with this provision shall be considered a substantial failure to comply with this Agreement. State may declare Supplier in default as set forth in Article A-24, withhold disbursements to Supplier, or take any other action it deems necessary to protect its interests. The provisions of this Subpart (b) shall be effective until expiration of the time period provided in Subpart (a) of this Article A-10.

ARTICLE A-11. REMITTANCE OF FUNDS BY SUPPLIER

Within thirty (30) days following the date of final disbursement of funds, Supplier shall remit to State any funds that were disbursed under this Agreement and were not utilized to pay Eligible Project Costs. Such funds will not be included in the Grant Amount.

ARTICLE A-12. ACCOUNTING AND DEPOSIT OF GRANT DISBURSEMENTS

(a) Separate Accounting of Grant Disbursements

Supplier shall account for the funds disbursed pursuant to this Agreement separately from all other Supplier's funds. Supplier shall maintain accounting

procedures that are in accordance with Generally Accepted Accounting Principles. Supplier shall keep complete and accurate records of all receipts, disbursements, and interest earned on such funds.

Supplier shall require its agents, contractors and subcontractors to maintain books, records, and other documents pertinent to their work in accordance with Generally Accepted Accounting Principles. Such records shall be subject to inspection by State at any and all reasonable times.

(b) Disposition of Funds Disbursed

In addition to specific requirements set forth in this Agreement, all funds disbursed pursuant to this Agreement shall be deposited, administered, and accounted for pursuant to all provisions of law applicable to Supplier.

(c) Interim and Final Audits

In addition to the provisions of Article A-10, at any time following execution of this Agreement and until completion of the Project, or final disbursement whichever shall occur last, State reserves the right to conduct an audit of Supplier's disposition of all funds disbursed under this Agreement.

Failure or refusal by Supplier to comply with these provisions shall be considered a substantial breach of this Agreement.

ARTICLE A-13. INSPECTIONS OF PROJECT BY STATE

State shall have the right but not the duty to inspect the work being performed on the Project at any and all reasonable times during the term of this Agreement. This right shall extend to any subcontracts, and Supplier shall include provisions ensuring such access in all its contracts or subcontracts related to the Project.

ARTICLE A-14. PROHIBITION AGAINST DISPOSAL OF PROJECT WITHOUT STATE PERMISSION

During the term of this Agreement Supplier shall not sell, abandon, transfer, or encumber in any manner whatsoever all or any portion of the Project or any real or other property necessarily connected or used in conjunction with the Project, without prior written consent of State.

ARTICLE A-15. NONDISCRIMINATION CLAUSE

During the performance of this Agreement, Supplier, its contractors and subcontractors, shall not deny the Agreement's benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age, or sex. Supplier, its contractors and subcontractors shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

Supplier, its contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, Sections 11135-11139.5) and the regulations or standards adopted by the awarding State Agency to implement such article.

By signing this Agreement, Supplier assures State that it shall comply with the requirements of the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA; the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d (1988) et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 (1989); Federal Water Pollution Control Act Amendments of 1972, Pub.L. No. 92-500, 86 Stat 816; and the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6102 (1994); together with all applicable regulations and guidelines adopted to implement same. Said group of laws and requirements are collectively referred to in this Agreement as the "anti-discrimination laws".

Supplier agrees to collect and maintain information to show compliance with the "anti-discrimination laws" including a list of discrimination complaints, reports of any compliance reviews conducted by other agencies descriptions of any pending discrimination-based lawsuits and data on the racial, ethnic, national origin, sex and handicap characteristics of the population it serves.

Supplier, its contractors and subcontractors shall give written notice of their obligations under this Article to labor organizations with which they have a collective bargaining or other agreement.

Supplier's signature on this Agreement shall constitute a certification under penalty of perjury under the laws of the State of California that Supplier has, unless exempted, complied with the nondiscrimination program requirements of Government Code, Section 12990, and Title 2, California Code of Regulations, Section 8103.

Supplier shall include the nondiscrimination and compliance provisions of this Article A-15 in all contracts and subcontracts to perform work on the Project.

ARTICLE A-16. WORKERS' COMPENSATION CLAUSE

Supplier affirms that it is aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and Supplier affirms that it will comply with such provisions before commencing performance of work under this Agreement and will make its contractors and subcontractors aware of this provision.

ARTICLE A-17. SUCCESSORS AND ASSIGNS

This Agreement and all of its provisions shall inure to the benefit of, apply to, and bind the heirs, successors and assigns of the parties hereto. No assignment or transfer of this Agreement or any part hereof by Supplier shall be valid unless and until it is approved by State and made subject to such reasonable terms and conditions as State may impose.

ARTICLE A-18. STATE TO BE HELD HARMLESS

Supplier shall indemnify, hold harmless, protect and defend State and its officers, employees, agents and representatives from any loss, suit, action or claim brought for, or on account of any violation of law, ordinance, rule, or regulation, or any injury, damage, or loss, including death, caused by acts or omissions of Supplier, its employees, contractors, or agents; or in any way arising from, or related to the Project.

ARTICLE A-19. REMEDIES NOT EXCLUSIVE

The use by either party of any remedy specified herein for the enforcement of this 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.

ARTICLE A-20. AMENDMENTS

This Agreement may be amended only by mutual written agreement signed by the parties hereto. Requests by Supplier for amendments must be in writing stating the amendment request and the reason for the request.

ARTICLE A-21. WAIVER OF RIGHTS

It is the intention of the parties hereto that from time to time either party may waive any of its rights under this Agreement unless contrary to law. Any waiver by either party hereto of rights arising in connection with this Agreement shall not be deemed to be a waiver with respect to any other rights or matters.

ARTICLE A-22. DISPUTE CLAUSE

Any dispute that Supplier may have regarding the performance of this Agreement including, but not limited to, claims for additional disbursements of funds or extension of time, shall be submitted to State's Grant Administrator identified in Section 10 of this Agreement. State's Grant Administrator may make findings and recommendations and transmit a copy of the claim and any such findings and recommendations to the California Department of Public Health, Chief, Division of Drinking Water and Environmental Management, who shall make a decision on such dispute which decision shall be in writing and transmitted to Supplier by certified or registered mail. Said decision shall be final and conclusive.

ARTICLE A-23. PERFORMANCE AND ASSURANCES

Supplier agrees to faithfully and expeditiously perform or cause to be performed all Project work as described in Exhibit B and any final plans and specifications as submitted to and approved by State, and to apply funds received only to Eligible Project Costs and to operate and maintain the Project in accordance with applicable provisions of the law.

ARTICLE A-24. DEFAULT PROVISIONS

(a) Supplier will be in default under this Agreement if any of the following occur:

- (1) Supplier's failure to make any remittances required by this Agreement;
- (2) Supplier's substantial breach of this Agreement, or any supplement or amendment to it;
- (3) Supplier's making of any false warranty, representation, or statement with respect to this Agreement or the Project;
- (4) Dissolution or cessation of operations by Supplier, termination of Supplier's existence, insolvency of Supplier, or filing of a voluntary or involuntary bankruptcy petition by or on behalf of Supplier; and/or

- (b) When an event of default occurs, State may give Supplier notice of default. Supplier shall have ten (10) calendar days from the date of such notice to cure the default. If Supplier fails to timely cure the default to the satisfaction of State, then State may do any or all of the following:
- (1) Declare that any and all amounts disbursed to Supplier under the terms of this Agreement shall be deemed an obligation of Supplier and due and payable to State;
 - (2) Declare Supplier's obligations immediately due and payable, with or without demand or notice to Supplier, which Supplier expressly waives;
 - (3) Terminate any obligation of State to make further disbursements to Supplier under this Agreement;
 - (4) Perform any of Supplier's obligations under this Agreement for Supplier's account; and/or
 - (5) Take any other action it deems necessary to protect its interests.
- (c) Supplier agrees that any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to State as a result of a breach of agreement by Supplier, whether such breach occurs before or after completion of the Project.
- (d) No waiver by State of any breach or default will be a waiver of any other breach or default.

ARTICLE A-25. DRUG-FREE WORKPLACE CERTIFICATION

By signing this Agreement, Supplier hereby certifies under penalty of perjury under the laws of the State of California that Supplier will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- (a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- (b) Establish a Drug-Free Awareness program to inform employees about all of the following:
 - (1) The dangers of drug abuse in the workplace;

- (2) The person's or organization's policy of maintaining a drug-free workplace;
 - (3) Any available counseling, rehabilitation and employee assistance programs;
 - (4) Penalties that may be imposed upon employees for drug abuse violations.
- (c) Every employee who works on the Project:
- (1) Shall be issued a copy of Supplier's drug-free policy statement;
 - (2) Shall agree to abide by terms of Supplier's statement as a condition of employment on the Project.

This Agreement may be subject to suspension of payments or termination, or both, and Supplier may be subject to debarment if State determines that: (1) Supplier has made a false certification, or (2) Supplier has violated the certification by failing to carry out the requirements of this Article A-25.

ARTICLE A-26. CONFLICT OF INTEREST--CURRENT AND FORMER STATE EMPLOYEES

- (a) Current State Officers and Employees:
- (1) Supplier shall not utilize in the performance of this Agreement any state officer or employee in the state civil service or other appointed state official unless the employment, activity, or enterprise is required as a condition of the officer or employee's regular state employment. Employee in the state civil service is defined to be any person legally holding a permanent or intermittent position in the state civil service.
 - (2) If any state officer or employee is utilized or employed in the performance of this Agreement, Supplier shall first obtain written verification from State that the employment, activity, or enterprise is required as a condition of the officer's, employee's, or official's regular state employment and shall keep said verification on file for three (3) years after the termination of this Agreement.
 - (3) Supplier may not accept occasional work from any currently employed state officer, employee, or official.
 - (4) If Supplier accepts volunteer work from any currently employed state officer, employee, or official, Supplier may not reimburse, or otherwise pay or compensate, such person for expenses incurred, including, without

limitation, travel expenses, per diem, or the like, in connection with volunteer work on behalf of Supplier.

- (5) Supplier shall not employ any state officers, employees, or officials who are on paid or unpaid leave of absence from their regular state employment.
- (6) Supplier or anyone having a financial interest in the Agreement may not become a state officer, employee, or official during the term of this Agreement. Supplier shall notify each of its employees, and any other person having a financial interest in this Agreement that it is unlawful under the Public Contract Code for such person to become a state officer, employee, or official during the term of this Agreement unless any relationship with the Supplier giving rise to a financial interest, as an employee or otherwise, is first terminated.
- (7) Occasional or one-time reimbursement of a state employee's travel expenses is not acceptable.

(b) Former State Officers and Employees:

- (1) Supplier shall not utilize in the performance of this Agreement any formerly employed person of any state agency or department that was employed under the state civil service, or otherwise appointed to serve in the State Government, if that person was engaged in any negotiations, transactions, planning, arrangement, or any part of the decision making process relevant to the Agreement while employed in any capacity by any state agency or department. This prohibition shall apply for a two (2) year period beginning on the date the person left state employment.
- (2) Supplier shall not utilize within twelve (12) months from the date of separation from services, a former employee of the contracting state agency or department if that former employee was employed in a policy making position in the same general subject area as the proposed Agreement within the twelve (12) month period prior to the employee leaving state service.

ARTICLE A-27. PROHIBITED USE OF STATE FUNDS FOR SOFTWARE

Supplier certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

EXHIBIT B

SPECIAL TERMS AND CONDITIONS

ARTICLE B-1. DESCRIPTION OF DROUGHT-RELATED DRINKING WATER EMERGENCY

Supplier is a community water system, as defined pursuant to Health and Safety Code Section 116275(i), that serves 1,339 connections in the County of Mendocino, and is experiencing a threatened emergency as defined in the Act's implementing guidelines, dated March 28, 2014. The level of Lake Mendocino has dropped significantly, impacting **Supplier's** water intake. In mid-February, Lake Mendocino water level was within nine (9) feet of **Supplier's** intake and dropping at a rate of 2.5 inches per day. Assuming no rain and the lake elevation decrease at the time, **Supplier** had approximately 40 days of water left before its intake would be out of the water. **Supplier** currently has an emergency 4-inch intertie to Calpella County Water District (CCWD) (Public Water System No. 2300507); however, due to pipe limitations the existing intertie is insufficient to provide **Supplier** with an adequate water supply. The threatened emergency is further described in **Attachment 5** of this Agreement.

ARTICLE B-2. PROJECT DESCRIPTION

The project is to install a second 6-inch intertie between **Supplier** and CCWD. CCWD's primary source of water is from Millview County Water District's (MCWD) (Public Water System No. 23100060), therefore the project will also fund upgrades to CCWD's intertie with MCWD in order to provide sufficient supply to **Supplier**. Upon completion, **Supplier** will be able to receive water from an existing network of interties in the Ukiah Valley. The project tasks include the following: 1) 1,450 feet of 6-inch pipeline to interconnect **Supplier** and CCWD, 2) pump station site piping, building, and electrical components, 3) necessary appurtenances to connect **Supplier** and CCWD, and 4) modifications to the MCWD – CCWD interconnection. The Project is fully described in **Attachment 5** of this Agreement.

ARTICLE B-3. SUPPLIER'S CERTIFICATION

(1) By its signature to this Agreement, Supplier certifies that the description of emergency or threatened emergency in Article B-1 of this Exhibit B is accurate, and that the Project described in Article B-2 of this Exhibit B is necessary to address said drought related drinking water emergency or threatened emergency.

(2) By its signature to this Agreement, Supplier certifies that to the best of its knowledge, there are no funds available for the Project in excess of the amount it agrees to demonstrate as incurred or to be incurred, as set forth in Section 5 of this Agreement, prior to State's disbursement of funds under the terms of this Agreement.

ARTICLE B-4. OTHER TERMS AND CONDITIONS.

- (1) Notwithstanding any other provision of this Agreement, including but not limited to Article A-6 (f) hereof, State shall have no duty to disburse funds under this Agreement after June 30, 2016.
- (2) Except as may be determined by, and at the sole discretion of State, **Supplier** shall be reimbursed only for Eligible Project Costs incurred on or after January 17, 2014, the date of the State of Emergency declaration.
- (3) Not later than thirty (30) days following Date of Execution of this Agreement, **Supplier** shall submit a draft drought response plan to State's **Mendocino** District Office for its review and comment. At a minimum, **Supplier's** drought response plan shall include an implementation schedule and shall address all wasteful uses of domestic water within Supplier's service area including, but not limited to, landscape watering and washing of windows, vehicles, sidewalks and other exterior surfaces. Not later than forty-five (45) days following receipt of comments from State, Supplier shall prepare a final drought response plan, which plan shall address all comments received from State; and shall submit the final drought response plan to State's **Mendocino** District Office for review and written approval. **Supplier's** final and approved drought response plan is herein referred to as its "Drought Response Plan".
- (4) **Supplier** expressly agrees to implement its Drought Response Plan in accordance with the schedule set forth therein. If, upon Date of Execution of this Agreement, **Supplier** is already implementing water conservation measures substantially in conformance with the requirements of this Article B-4, **Supplier** may incorporate such measures into its Drought Response Plan.
- (5) **Supplier** expressly agrees that its failure to implement its Drought Response Plan constitutes a threatened violation of its duty, pursuant to Health & Safety Code, section 116555, to provide a reliable and adequate supply of pure, wholesome, healthful, and potable water; and **Supplier** further expressly agrees that State may issue a compliance order, pursuant to Health & Safety Code section 116655, directing **Supplier's** compliance with its Drought Response Plan. **Supplier** further agrees that the terms and conditions of this Article B-4, paragraph five (5) shall survive termination of this Agreement for any reason.
- (6) Pursuant to Article A-5 herein, **Supplier** shall notify State's **Mendocino** District Office of any change in the proposed Project cost or scope.
- (7) Notwithstanding any term or condition to the contrary in this Agreement, including but not limited to Article A-8, **Supplier** may place a Project facility into operation prior to completion of the Project if prior written authorization is obtained from State's **Mendocino** District Office.

(8) **Supplier** shall utilize the 355 Acre-Feet of water rights obtained by the Russian River Flood Control and Water Conservation Improvement District for 2014 solely for domestic water supplies.

(9) Prior to disbursement of funds, **Supplier** shall provide to the State's **Mendocino** District Office proof of an executed agreement with CCWD and MCWD allowing usage of the emergency intertie.

(10) **Supplier** shall notify State that funding for the Project is available, or will become available, from any source, including but not limited to a state or federal agency; said notification shall be given to State not later than fifteen (15) days after **Supplier** has knowledge of the availability of such funds. Notwithstanding any other term or condition of this Agreement, Supplier expressly agrees that State may reduce the amount of grant funding awarded pursuant to Section 4 of this Agreement and increase the Supplier's Cost set forth in Section 5 of this Agreement, in the amount of such other available funds for the Project.

(11) **Supplier** shall notify State's **Mendocino** District Office when Project construction is **one-hundred (100) percent** complete and prior to any start-up testing of the facilities.

(12) Not later than thirty (30) days following the Project Completion Date, **Supplier** shall submit to State's **Mendocino** District Office for its review, a copy of as-built plans for the Project construction, including but not limited to the pipelines and construction of any new facilities.