

**EXHIBIT A**

**SCOPE OF WORK**

1. Contractor agrees to provide to the State Water Resources Control Board (SWRCB) subvention services as described herein: (identify briefly the construction, cleanup or studies that will be performed using these grant funds, include county or city name and beach name).
2. The services shall be performed at (county/city name) (beach name).
3. The project representatives during the term of this agreement will be:

**PROJECT REPRESENTATIVES**

State Agency: State Water Resources Control Board	Contractor:
SWRCB Project Representative:	Project Representative:
Phone:	Phone:
Fax:	Fax:

The SWRCB's Project Representative shall be \_\_\_\_\_ of the Division of Clean Water Programs. The SWRCB Project Representative shall be the day-to-day representative for administration of this agreement, and, except as otherwise specifically provided, shall have full authority to act on behalf of the SWRCB with respect to this agreement. The SWRCB's Executive Director, or designee, may also perform any and all acts that could be performed by the SWRCB Project Representative under this agreement. Except as otherwise expressly provided, all communications relative to this agreement shall be given to the SWRCB Project Representative.

The Project Representative shall be \_\_\_\_\_. The Project Representative shall be the Contractor's representative for the technical conduct and administration of the agreement and shall have full authority to act on behalf of the Contractor. All communications given to the Project Representative shall be binding as if given to the Contractor.

The parties may change their SWRCB Project Representative or Project Representative upon providing written notice to the other party.

<b>Direct all inquiries to:</b> State Water Resources Control Board	Contractor's Name
Division of Clean Water Programs	Section/Unit
Attention:	Attention:
Address:	Address:
Phone:	Phone:
Fax:	Fax:

4. Detailed description of work to be performed and duties of all parties shall be provided in accordance to Exhibit A-1 Work To Be Performed which is attached hereto and made part of this agreement.

## EXHIBIT A-1 – WORK TO BE PERFORMED

### A. BACKGROUND AND GOALS

This portion of the scope of work is devoted to answering the question, "Why is the proposed service/work needed?" Provide a brief problem statement. This is where you will also briefly summarize the goals of the proposed contract. Be as clear and concise as possible. The scope of work requires quality of information, not necessarily quantity. This is also the place to note the cooperators for the project.

### B. WORK TO BE PERFORMED

#### START WORK STATEMENT HERE

The Statement of Work is considered the "meat" of the contract because it clearly defines the exact steps the Contractor will take to complete each task. It should be a logical, sequential description of the work to achieve their stated goals(s). In addition to a list of deliverables at the end of each task, you may also list the activities accomplished in performance of the task (optional).

#### **APPROACH THE STATEMENT OF WORK AS IF YOU WERE LEAVING AND THE PERSON WHO TAKES YOUR PLACE MUST PICK IT UP AND COMPLETELY UNDERSTAND THE WORK TO BE COMPLETED BY THE CONTRACTOR UNDER THIS CONTRACT.**

The Contractor shall be responsible for the performance of the work as set forth herein below and for the preparation of products and a final report as specified in this Exhibit. The Project Representative shall promptly notify the SWRCB Project Representative of events or proposed changes that could affect the scope, budget, or schedule of work performed under this agreement.

#### Task 1. Project Management and Administration **(Task 1 must always be administration.)**

- 1.1 Provide all technical and administrative services as needed for contract completion; monitor, supervise and review all work performed; and coordinate budgeting and scheduling to assure that the contract is completed within budget, on schedule, and in accordance with approved procedures, applicable laws, and regulations.
- 1.2 Ensure that the contract requirements are met through completion of quarterly/monthly progress reports and through regular communication with the SWRCB Project Representative. The progress reports shall describe activities undertaken and accomplishments of each task during the quarter/month, milestones achieved, and any problems encountered in the performance of the work under this contract. The description of activities and accomplishments of each task during the quarter shall be in sufficient detail to provide a basis for payment of invoices and shall be translated into percent of task work completed for the purpose of calculating invoice amounts.
- 1.3 State Disclosure Requirements - Include the following disclosure statement in any document, written report, or brochure prepared in whole or in part pursuant to this contract:

"Funding for this project has been provided in full or in part through a contract with the State Water Resources Control Board (SWRCB) pursuant to the Costa-Machado Water Act of 2000 (Proposition 13) and any amendments thereto for the implementation of California's Nonpoint Source Pollution Control Program. The contents of this document do not necessarily reflect the views and policies of the SWRCB, nor does mention of trade names or commercial products constitute endorsement or recommendation for use." (Gov. Code 7550, 40 CFR 31.20)

The Contractor shall include in each of its contracts for work under this contract a provision that incorporates the requirements stated within this subtask.

- 1.4 The Contractor and any of its contractors shall notify the SWRCB Project Representative at least ten working days prior to any public or media event publicizing the accomplishments and/or

## EXHIBIT A-1 – WORK TO BE PERFORMED

results of this contract and provide the opportunity for attendance and participation by SWRCB representatives.

- 1.5 Complete a one-page contract summary form (form to be provided by the SWRCB) within one/three month(s) of the contract execution.
- 1.6 Award contract(s) to appropriate organization(s) to perform tasks as outlined in this agreement. Document steps taken in soliciting and awarding the contract and submit them to the SWRCB Project Representative for review. Document all contractor activities in quarterly/monthly reports.
- 1.7 At the completion of this project and prior to final payment, the Project Representative shall fill out and provide a project survey form to the SWRCB Project Representative.

Task Deliverables: 1.2 Quarterly/Monthly Progress Reports, 1.5 Contract Summary Form, 1.6 Subcontractor Documentation, 1.7 Project Survey Form

### Task 2: California Environmental Quality Act (CEQA) Documents and Permits

- 2.1 No work that is subject to CEQA shall proceed under this contract until the SWRCB Project Representative receives documents that satisfy the CEQA process, the SWRCB makes findings where appropriate, and the SWRCB Project Representative incorporates mitigation and monitoring measures into the project contract where appropriate.
- 2.2 Secure all required permits for project work. No work that is subject to permitting shall proceed under this contract until the SWRCB Project Representative receives documents that satisfy the permitting process(es).

Task Deliverables: 2.1 CEQA Documentation; 2.2 permits.

### Task 3: Quality Assurance Project Plan (if applicable)

- 3.1 Prepare and maintain a Quality Assurance Project Plan (QAPP). Language can be substituted to reference an approved existing QAPP. The SWRCB Project Representative prior to the implementation of any sampling or monitoring activities shall approve the QAPP.

Task Deliverables: 3.1 QAPP

### Task 4: Statement of Work

- 4.1 When writing the Statement of Work, describe in detail the following elements:
  1. Itemize specific tasks to be performed in successive order from planning through completion (ACTIVITIES). Be sure to start each task with an action word, e.g. "Conduct an information workshop."
  2. Methods and materials to be used in performing the work.
  3. Regulations and standards to assure a minimum standard of quality, regulatory compliance, and product acceptability.
  4. Deliverables produced in performance of each task must be listed by subtask number following the task in which they were produced.
  5. In addition to a list of deliverables at the end of each task, you may also list the activities accomplished in performance of the task (optional).

Task Deliverables: Project Specific

**EXHIBIT A-1 – WORK TO BE PERFORMED**

Task 5: Project Implementation

5.1 Project Specific

Task Deliverables: 5.1 Project Specific.

Task 6: Reporting

- 6.1 Submit to the SWRCB a monitoring and reporting plan consistent with Water Code § 79148.8(d). The plan shall address the following information:
  - 1. Identifies the non-point source or sources of pollution to be prevented or reduced by the project.
  - 2. Describe the baseline water quality or quality of the environment to be addressed.
  - 3. Describes the manner in which the project will be effective in preventing or reducing pollution and in demonstrating the desired environmental results.
  
- 6.2 Prepare a draft final project report that summarizes project accomplishments and submit to SWRCB Project Representative for review and comment. The report shall provide the following requirements:
  - 1. A brief introduction section including a statement of purpose, the scope of the project, and a brief description of the approach and techniques used during the project.
  - 2. A list of task products previously submitted as outlined in the Schedule of Completion.
  - 3. Any additional information that is deemed appropriate by the Project Representative.
  - 4. Indicate whether the purposes of the project have been met. Include information collected in accordance with the project monitoring and reporting plan, including a determination of the effectiveness of the best management practices or management measures implemented as part of the project in preventing or reducing non-point source pollution.
  
- 6.3 Prepare final report that addresses comments from the SWRCB Project Representative.

Task Deliverables: 6.1 Monitoring and Reporting Plan, 6.2 Draft Final Report, 6.3 Final Report

**C. SCHEDULE OF COMPLETION DATES**

TASK	DESCRIPTION	COMPLETION DATE
1	Project Management and Administration	
2	CEQA Documents and Permits	
3	Quality Assurance Project Plan (QAPP)	
4	Statement of Work	
5	Project Implementation	

The Contractor shall provide a "Schedule of Completion Dates" listing only the due dates for deliverables by task and their respective completion dates. The schedule should include the completion date (i.e., August 15, 2002), not the time it will take to complete the task.

**EXHIBIT A-1 – WORK TO BE PERFORMED**

**D. REPORTS**

1. The Project Representative shall submit a quarterly progress report to the SWRCB Project Representative describing activities undertaken, accomplishment of milestones, and any problems encountered in the performance of the work under this agreement, and delivery of intermediate products, if any. The description of activities and accomplishments of each task during the quarter shall contain sufficient detail to provide a basis for payment of invoices and shall be translated into percent of task work completed for the purpose of calculating invoice amounts.
2. The invoice shall include a copy of the progress report. If the progress report does not accompany the invoice, the invoice shall not be deemed complete until a copy of the progress report is received.
3. The Project Representative shall submit to the SWRCB Project Representative one reproducible master and two (2) copies of a draft report describing the work performed pursuant to Section C of this Exhibit for review and comment.
4. The SWRCB Project Representative shall submit final comments on the draft report to the Project Representative.
5. The Project Representative shall submit to the SWRCB Project Representative for approval one reproducible master and two (2) copies of the final report containing the results of the work performed and addressing the comments submitted to the Project Representative by the SWRCB Project Representative. The report shall not be considered final until accepted and approved by the SWRCB Project Representative.

**E. SPECIAL MITIGATION MEASURES**

- No special mitigation measures are attached to this grant.    **or**
- Special mitigation measures that must be complied with are as follows:.

**EXHIBIT B**

**1. INVOICING AND PAYMENT**

For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.

- A. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

Name  
Office  
Address

- B. Payments will be on a cost incurred basis, upon receipt of an undisputed invoice and completed "Request for Disbursement", SWRCB Form 262 submitted in accordance with the instructions contained herein. Invoices received by the SWRCB Project Representative that are not consistent with this format will be cause for an invoice to be disputed. In the event of an invoice dispute the SWRCB Project Representative shall notify Contractor by Initiating a Standard Form 209 INVOICE DISPUTE NOTIFICATION. Payment will not be made until the dispute has been resolved and a corrected invoice submitted. The SWRCB Project Representative is required to approve all invoices for reimbursement. Only invoices for costs incurred after July 1, 2001, with all appropriate backup documents (supporting itemized invoice) attached will be approved.

The invoices shall include the following information:

- a. The word "Invoice" should appear in a prominent location at the top of the page(s) and include a sequential number.
- b. Printed name of the Contractor.
- c. Business address of the Contractor, including P.O. Box, City, State, and Zip Code;
- d. "Bill To" is SWRCB;
- e. The date of the invoice;
- f. The contract number upon which the claim is based;
- g. An itemized account of the services by task for which the SWRCB is being billed;
- h. Include an itemized account of "in-kind" grant match or "dollar" grant match including what percent the match represents of the total grant match obligation; and
- i. Printed on Original Contractor Letterhead or original signature by the Contractor's Administrative Officer or designee.
- j. The invoice must show the time period actually being billed. Submitting monthly or quarterly invoices is acceptable. Quarterly invoices must be based on the calendar quarter (ending in March, June, September, and December).

**EXHIBIT B – BUDGET DETAIL AND PAYMENT PROVISIONS**

**C. Computing the Amount Due**

Payment will be made upon submittal of an invoice which details the percentage of each task completed based on work not dollars spent. Notwithstanding any other provision of this contract, the Contractor agrees that the SWRCB may retain an amount equal to ten percent of the grant amount specified in this contract until completion of the Project to the satisfaction of the Division. Any retained amounts due to the Contractor will be promptly disbursed to the Contractor, without interest, upon completion of the Project.

**D. Matching Funds**

If projects include capital costs, the project applicant shall identify those costs. The local matching contribution required by subdivision (f) of Section 79148.8 of the Water Code may be satisfied by in-kind match that meets all or a portion of local cost share required by subdivision (f) of Section 79148.8 of the Water Code. For the purposes of determining the capital cost of the Project, the in-kind match shall be included in the total project cost. The "Contractor" shall provide a matching contribution for the portion of the project consisting of capital expenditures for construction, according to the following formula:

Project Capital Cost = Capital Cost Match by Recipient  
\$1,000,000 to \$5,000,000, inclusive = 20%  
\$125,000 to \$999,999, inclusive = 15%  
\$1 to \$124,999, inclusive = 10%

**E. Final Invoice**

The final invoice should include the amount of the remainder of the contract work. The invoice must be clearly marked **FINAL INVOICE**.

**F. Backup Documents**

It is necessary to provide monthly/quarterly reports, task products due, and vendor invoices for the purchase of equipment (items over \$5000) as attachments to the invoices. You must, however, keep copies of all vendor invoices, timesheets, and any other documents related to the project for future audit purposes.

**G. Payment of Project Costs**

Contractor agrees that it shall provide for payment of its full share of the Project costs. All costs and payments for the Project shall be paid by the Contractor promptly and in compliance with all applicable laws.

**H. Withholding of Grant Disbursements**

The SWRCB may withhold all or any portion of the grant funds provided for by this contract in the event that:

- (1) The Contractor has materially violated, or threatens to materially violate, any term, provision, condition, or commitment of this contract;
- (2) The Contractor fails to maintain reasonable progress toward completion of the Project.

**EXHIBIT B – BUDGET DETAIL AND PAYMENT PROVISIONS**

**I. Fiscal Management Systems and Accounting Standards**

The Contractor shall comply with state standards for financial management systems. At a minimum, the Contractor's fiscal control and accounting procedures shall permit preparation of reports required by the state and tracking of grant funds to a level of expenditure adequate to establish that such funds have not been used in violation of state law or the terms of this contract. The Contractor shall maintain separate Project accounts in accordance with generally accepted government accounting standards.

**2. ONE-TIME ADVANCE PAYMENT (OPTIONAL)**

If the Contractor is interested in requesting advance payment, the following task must be added to the scope of work:

Prepare a written justification for a one-time advance payment up to 25 percent of the total contract amount. The written justification must contain the need for the advance payment and must justify the advance payment costs by category (i.e., cash flow, equipment or supply purchases, advancing funds to the subcontractor to begin work). The written justification must contain a proposed time frame for accounting for the recoupment of the advance payment during the contract invoicing process. This recoupment schedule will be an approved written agreement between the Contractor and the SWRCB Project Representative and the agreed upon scheduled recoupment amounts will be deducted from future invoices. Submit the written justification to the SWRCB Project Representative for review and approval. Once the written advance payment justification has been approved by the SWRCB Project Representative, the Project Director will submit an invoice for the approved payment consisting of an original and two copies to the SWRCB Project Representative. All subsequent invoices shall be in the format provided with the advance payment approval (sample invoice will be attached).

Setup separate bank account for the advance payment (even for one-time purchase of equipment). Submit bank statements yearly or at the end of the reconciliation of the advance payment funds depending on the accounting recoupment schedule that details any interest earned on the account. All interest earned must be returned to the State Board via the Accounting Office. All checks must include the Program Name and the Contract Number.

**3. LIMITATION OF FUNDING:**

The maximum amount to be encumbered under this agreement for the 2001 fiscal year ending June 30, 2002 shall not exceed \$\_\_\_\_\_.

**4. BUDGET CONTINGENCY CLAUSE**

- A. It is mutually agreed that if the Budget Act of 2001/02 and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.



**EXHIBIT B – BUDGET DETAIL AND PAYMENT PROVISIONS**

**5. BUDGET**

**A. Task Budget**

Task Budget (Tasks <u>must</u> match "Scope of Work" Exhibit A)		
Task	Description	Total Budget
1		
2		
etc.		

**B. Line Item Budget**

	Prop 13 SWRCB Share	Capital Cost* Match Share (if applicable) \$	Total Budget \$
1. Personnel Services (including fringe Benefits @ ____%) Class Hours Wage/Hour Principle Engineer** Senior Engineer** Associate Engineer** Word Processor**	_____	_____	_____
2. Operating Expenses Includes Photocopying, Telephone, Office Supplies	_____	_____	_____
3. Professional/ Consulting Services	_____	_____	_____
4. Construction Expenses***	_____	_____	_____
5. Equipment	_____	_____	_____
6. Computer Time	_____	_____	_____
7. Travel Expenses Per Diem @ \$_____/day+tax Mileage @ \$0.31/mile	_____	_____	_____
8. Overhead (%)	_____	_____	_____
<b>TOTAL BUDGET</b>	_____	_____	_____

\* Match Share in dollars – See Exhibit B. – Item D for example to calculate match share.

\*\* For example only. These staff members must be employees of the Contractor.

\*\*\* Define the source or nature of capital expenditures for construction.

## EXHIBIT C

Exhibit C contains the General Terms and Conditions (GTC) 201. These terms and conditions are made part of this agreement as if attached hereto.

The GTC 201 can be viewed at [www.dgs.ca.gov/contracts](http://www.dgs.ca.gov/contracts)

Please access the above-referenced website and read the GTC 201 in its entirety. A hard copy will not be supplied with your executed contract.

EXHIBIT D

SPECIAL TERMS AND CONDITIONS

1. Disputes: Any dispute arising under or relating to the terms of this Agreement, or related to performance hereunder, which is not disposed of by Agreement shall be decided by the SWRCB Project Representative, who shall reduce such decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the SWRCB Project Representative shall be final and conclusive unless, within 15 calendar days from the date of receipt of such copy, the Contractor mails or otherwise delivers a written appeal to the State's Executive Director. The decision of the State's Executive Director, or Project Representative, on such appeal shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by any substantial evidence. In connection with any appeal under this Section, the Contractor shall be afforded an opportunity to be heard and to offer evidence and argument in support of the appeal. Pending final decision on any dispute hereunder, the Contractor shall proceed diligently with the performance of the Agreement work as directed by the SWRCB Project Representative unless the Contractor has received notice of termination. Decisions on any disputes hereunder may include decisions of both fact and law; provided, however, that nothing herein shall be construed as making final any decision on a question of fact or law in the event of any subsequent legal proceeding before a court of competent jurisdiction.

Authority to terminate performance under the terms of this Agreement is not subject to appeal under this Section. All other issues including, but not limited to, the amount of any equitable adjustment, and the amount of any compensation or reimbursement which should be paid to the Contractor shall be subject to the disputes process under this Section. (PCC 10240.5, 10381, 22200 et seq, 40 CFR 31.70)

2. Rights in Data: The Contractor 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 Agreement are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the State reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so. (40 CFR 31.34, 31.36)
3. Income Restrictions: The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to the State, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the State under this Agreement.
4. Permits, Subcontracting, Waiver, Remedies and Debarment: The Contractor shall procure all permits and licenses necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

Any subcontractors, outside associates, or consultants required by the Contractor in connection with the services covered by this Agreement shall be limited to such individuals or firms as were specifically identified and agreed to during negotiations for this Agreement, or as are specifically authorized by the SWRCB Project Representative during the performance of this Agreement. Any substitutions in, or additions to, such subcontractors, associates, or consultants, shall be subject to the prior written approval of the SWRCB Project Representative.

Any waiver of rights with respect to a default or other matter arising under the Agreement at any time by either party shall not be considered a waiver of rights with respect to any other default or matter.

Any rights and remedies of the State provided for in this Agreement are in addition to any other rights and remedies provided by law.

Contractor shall not subcontract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549,

**EXHIBIT D– SPECIAL TERMS AND CONDITIONS**

"Debarment and Suspension". Contractor shall not subcontract with any individual or organization on USEPA's List of Violating Facilities. (40 CFR, Part 31.35, Gov. Code 4477)

5. Travel and Per Diem: Any reimbursement for necessary traveling and per diem shall be at rates not to exceed those amounts paid to the State's represented employees under collective bargaining Agreements currently in effect. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State.
6. Novation: If the Contractor proposes any novation Agreement, the State shall act upon the proposal within 60 days after receipt of the written proposal. The State may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection may be made orally within the 60-day period, and confirmed in writing within five days. No novation shall become operative or otherwise binding on the State pursuant to this paragraph in the absence of a formal Agreement amendment which has been approved in accordance with all applicable State policy, laws and procedures.
7. Priority Hiring Considerations: Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the California Welfare and Institutions Code in accordance with Article 3.9 (commencing with Section 11349) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institution Code. (PCC 10353 W&I 11200, 11349, 2CCR, 1896.30 SCM 5.3)
8. Contract Modifications: The State Water Board may, at any time, without notice to any sureties, by written order designated or indicated to be a "contract modification", make any change in the work to be performed under this agreement so long as the modified work is within the general scope of work called for by this agreement, including but not limited to changes in the specifications or in the method, manner, or time of performance of work. If the Contractor intends to dispute the change, the Contractor must, within ten days after receipt of a written "contract modification", submit to the SWRCB a written statement setting forth the disagreement with the change.
9. Termination: Notwithstanding the provisions of the Department of General Services General Terms and Conditions (GTC). This contract may be terminated by written notice at any time prior to completion of the Project, at the option of the SWRCB, upon violation by the Grantee of any material provision of this contract after such violation has been called to the attention of the Grantee and after failure of the Grantee to bring itself into compliance with the provisions of this contract within a reasonable time as established by the Division. In the event of such termination, the Grantee agrees, upon demand, to immediately repay to the SWRCB an amount equal to the amount of grant funds disbursed to the Grantee prior to such termination. In the event of termination, interest shall accrue on all amounts due at the highest legal rate of interest from the date that notice of termination is mailed to the Grantee to the date of full repayment by the Grantee.
10. Budget Flexibility: Subject to the prior review and approval of the SWRCB Project Representative, line item shifts of up to \$25,000 or ten percent of the annual contract total, whichever is less, may be made up to a cumulative maximum of \$50,000 per fiscal year. Line item shifts may be proposed/requested by either the State Water Board or the Contractor in writing and must not increase or decrease the total contract amount allocated per fiscal year.
11. Computer Software: Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.
12. Property Acquisitions: Property, as used in this section, shall include:
  - a. Equipment – Tangible property (including furniture) with a unit cost of \$5,000.00 or more and a useful life of four (4) years or more. Actual cost includes the purchase price plus all costs to acquire, install and prepare the equipment for its intended use.
  - b. Furniture – standard office furnishings including desks, chairs, bookcases, credenzas, tables, coat racks, etc.

**EXHIBIT D– SPECIAL TERMS AND CONDITIONS**

- c. Portable Assets – Items considered “highly desirable” because of their portability and value; e.g. calculators, typewriters, dictaphones, cameras and microscopes.
- d. Electronic Data Processing (EDP) Equipment – All computerized and auxiliary automated information handling including system design and analysis, conversion of data, computer programming, information storage and retrieval, voice, video and data communications, requisite system controls, simulation and all related interactions between people and machines.

The Contractor may purchase property under this Agreement only if specified in Exhibit “B” (Budget and Payment Provisions). Any property purchased by the Contractor with funds provided under this Agreement shall be the property of the State during the customary depreciable life thereof. The Contractor shall promptly report any such purchase to the SWRCB Project Representative and to the State’s Property Officer (Property Officer). Should this Agreement be terminated for any reason, or upon expiration and failure to negotiate renewal hereof, all such property shall be returned to the State within the timeframe negotiated between the Contractor and the State.

Prior written authorization by the SWRCB Project Representative shall be required before the Contractor will be reimbursed for any property purchases not specified in the Budget. The Contractor shall provide to the SWRCB Project Representative all particulars regarding the necessity for such property and the reasonableness of the cost.

Before property purchases made by the Contractor are reimbursed by the State, the Contractor shall submit paid vendor receipts identifying the Agreement number, purchase price, description of the item, serial number, model number, and location including street address where property will be used during the term of this Agreement. Said paid receipts shall be attached to Contractor’s invoices.

The Contractor shall keep adequate and appropriate records of all property purchased with Agreement funds and at the time of purchase prepare a “Property Purchased with State Funds” (Form SWRCB 3-016) and submit one copy to the SWRCB Project Representative and one copy to the Property Officer. The Contractor must retain a copy.

The State reserves the right at any time to evaluate the cost of property and reimburse at an amount equal to costs reflected in but not limited to Agreements the State Department of General Services, Office of Procurement has negotiated with vendors who supply the same type of property.

All property shall be tagged after acquisition by Contractor in accordance with instructions provided. The purpose of tagging assets is to designate the assets as belonging to the State.

Whenever property is lost, stolen, or destroyed, the Contractor shall immediately report the loss theft or destruction to the local law enforcement agency (or the California Highway Patrol (CHP) if the crime occurs on either state-owned or state leased property) and to the SWRCB Project Representative and prepare a Property Survey Report. In the case of stolen property, the Contractor shall also complete a CHP Report of Crime on State Property from (Std. 99), obtain a copy of the law enforcement agency’s report and submit these to the SWRCB Project Representative. The Contractor shall adjust its property accounting records and retain a copy of the Property Survey Report as documentation.

Losses of State property due to fraud or embezzlement shall be reported in the same manner as described above. The Contractor shall be charged with any loss and damages to State property due to the Contractor’s negligence.

Contractor shall, at the request of the State, submit an inventory of property furnished or purchased under the terms of this Agreement. Such inventory will be required not more frequently than annually.

Upon termination, expiration or failure to negotiate renewal of the Agreement, all property purchased with Agreement funds shall promptly be returned to the State. The Contractor shall prepare and “Inventory of State Furnished Property” (Form SWRCB 3-017) and submit to the State and shall at that time query the SWRCB Project Representative as to the State’s requirements, including the manner and method, in returning said property to the State. Final Disposition of such property shall be at State expense in accordance with instructions from the SWRCB Project Representative to be issued immediately after receipt of the final inventory.

**EXHIBIT D– SPECIAL TERMS AND CONDITIONS**

State policies and procedures applicable to procurement with nonfederal funds shall apply to procurement by Contractor under this Agreement provided that procurements conform to applicable State law and the standards identified in this section. These include but are not limited to statutes applicable to State agencies, statutes applicable to State college and university public works projects, the California Constitution governing University of California contracting, the State Administrative Manual (SAM), statutes applicable to specific local agencies, applicable city and county charters and implementing ordinances including policies and procedures incorporated in local government manuals or operating memoranda. (40CFR 31.36) (SCM 7.29)

13. Union Organizing

Contractor by signing this agreement hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this agreement.

- 1) Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
- 2) No state funds received under this agreement will be used to assist, promote or deter union organizing.
- 3) Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.
- 4) If the Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.

## **SWRCB CBI SPECIAL CONDITIONS**

### **1. BOND TERMS**

- (A) Work performed under this contract shall protect the beneficial uses of the coastal waters throughout the State.
- (B) The Project has been the subject of consultation between the SWRCB, the California Coastal Commission, and the Beach Water Quality Task Force.
- (C) The Project demonstrates the ability to produce sustained benefits for 20 years.
- (D) The Project addresses the causes for the pollution, rather than the symptoms.
- (E) The Project shall be consistent with existing water quality and resources protection plans.
- (F) The Contractor has submitted a Monitoring and Reporting Plan.
- (G) The Contractor has included a matching contribution for the capital expenditures for construction.
- (H) The Contractor has informed the SWRCB of the permits necessary to complete the Project.
- (I) The Project is consistent with recovery plans for coho salmon, steelhead, or trout.
- (J) The Project has been the subject of public review.

### **2. DEFINITIONS**

- (A) "Allowance" means an amount based on a percentage of the accepted bid for an eligible project to help defray the planning, design, construction, engineering, and administration costs of the Project.
- (B) "Project Representative" means the Mayor of a City, the Chairperson of the County Board of Supervisors, the Chairperson of the Board of Directors of the Contractor, or another duly appointed representative. For all Project Representatives, a certified original copy of the authorizing resolution that designates the Project Representative by title, shall accompany any contract, the first payment request, and any other documents or requests required or allowed under this contract.
- (C) "Change in the scope of the Project" means any change from the Project description in the Project Authorization Package.
- (D) "Completion of construction" means the date, as determined by the Division after consultation with the Contractor, that the work of building and erection of the Project is substantially complete.
- (E) "Contractor" means \_\_\_(Agency)\_\_\_\_\_.
- (F) "Force account" means the Contractor's own employees or equipment used for Project construction.
- (G) "Initiation of construction" means the date that notice to proceed with work is issued for the Project or, if notice to proceed is not required, the date of commencement of building and erection of the Project.
- (H) "Project completion" means the date, as determined by the Division after consultation with the Contractor, that operation of the Project is or is capable of being initiated, whichever comes first.
- (I) "SWRCB" means the State Water Resources Control Board.
- (J) "Useful life of project" means 20 years from and after Project completion.

## **EXHIBIT E – SWRCB CLEAN BEACHES SPECIAL CONDITIONS**

### **3. GENERAL COMMITMENTS**

The Contractor accepts and agrees to comply with all terms, provisions, conditions, and commitments of this contract, including all incorporated documents, and to fulfill all assurances, declarations, representations, and commitments made by the Contractor in its application, accompanying documents, and communications filed in support of its request for this Grant.

### **4. COMPLETION OF PROJECT**

The Contractor agrees to expeditiously proceed with and complete the Project in substantial accordance with the application as submitted.

### **5. CONTINUING OBLIGATIONS**

The obligations of Sections 6, 7 and 8 below shall survive the Term of this Contract.

### **6. OPERATION AND MAINTENANCE**

The Contractor covenants and agrees to properly staff, operate, and maintain all portions of the Project during the Project's useful life and in accordance with all applicable state and federal laws, rules and regulations. In the event that the Contractor assigns or transfers any or all portions of the Project to another entity, the Contractor shall be responsible to ensure that the assignee or transferee of any or all portions of the Project shall properly staff, operate and maintain all portions of the Project during its useful life and in compliance with all applicable state and federal laws, rules and regulations. The Parties to this Agreement understand and agree that this covenant shall survive the expiration or termination of this Agreement. The Parties further understand and agree that this covenant is for the benefit of the SWRCB and shall be enforceable during the useful life of the Project facilities.

Failure at any time to comply with this Section shall be considered a material breach and violation of this Agreement, and a nonexclusive remedy shall include reimbursement by the Contractor of all grant funds disbursed under this Agreement, plus accrued prejudgment interest thereon from the date of disbursement of such funds.

### **7. PROJECT ACCESS**

The Contractor shall insure that the SWRCB, or any Project Representative thereof, has suitable and reasonable access to the Project site at all reasonable times for the useful life of the Project.

### **8. REPORTS**

The Contractor shall expeditiously provide, during construction or upon completion of the Project and thereafter during the useful life of the Project, such reports, data, and information as may be reasonably required by the Division, including but not limited to material necessary or appropriate for evaluation of the SWRCB program or to fulfill any reporting requirements of the state government.

### **9. FINAL PROJECT REPORTS; AUDIT**

- (A) Within 120 days after Project completion, the Contractor shall provide to the Division a final cost summary report on the Project. The summary shall include, at a minimum, a statement of:
- (1) Total Project costs;
  - (2) Total Project costs eligible for contract funding under the SWRCB's contract program and this contract;
  - (3) The total amount of contract funds received;



**EXHIBIT E – SWRCB CLEAN BEACHES SPECIAL CONDITIONS**

- (4) The amount of interest earned, if any, on contract funds before disbursement on account of incurred Project costs. If no interest has been earned, this fact shall be expressly stated; and
- (B) The Division may call for an audit of financial information relative to the Project, where the Division determines that an audit is desirable to assure program integrity or where necessary because of federal requirements. Such an audit shall be performed by a Certified Public Accountant independent of the Contractor and at the cost of the Contractor. The audit shall be in the form required by the Division.

**10. RECORDS**

- (A) Without limitation of the requirement to maintain Project accounts in accordance with generally accepted government accounting standards, the Contractor agrees to:
  - (1) Establish an official Project file that documents all significant actions relative to the Project;
  - (2) Establish separate accounts that adequately and accurately depict all amounts received and expended on the Project, including all contract funds received under this contract;
  - (3) Establish separate accounts that depict all income received which is attributable to the Project, specifically including any income attributable to contract funds disbursed under this contract;
  - (4) Establish an accounting system that accurately depicts final total costs of the Project, including both direct and indirect costs;
  - (5) Establish such accounts and maintain such records as necessary for the State to fulfill reporting requirements, including any and all reporting requirements under federal tax statutes or regulations; and
  - (6) If the Contractor uses its force account for any phase of the Project, other than for planning, design and construction engineering, and administration provided for by allowance, the Contractor shall establish accounts which reasonably document all employee hours charged to the Project and the associated tasks performed by each employee. Indirect force account costs may be paid with the SWRCB's prior written approval.
- (B) The Contractor shall require Project contractors and subcontractors to maintain books, records, and other material relative to the Project in accordance with generally accepted accounting standards. The Contractor shall require such contractors and subcontractors to retain such books, records, and other material for a minimum of six years after Project completion. The Contractor shall require that such books, records, and other material shall be subject at all reasonable times to inspection, copying, and audit by the SWRCB and by state auditors, or any Project Representatives thereof.
- (C) The Contractor shall retain its Project records for a minimum of six years after Project completion, and for such longer period as may be required for the State to fulfill federal reporting requirements under federal tax statutes and regulations. All Contractor records relative to the Project shall be subject at all reasonable times to inspection, copying and audit by the SWRCB and state auditors, or any Project Representatives thereof.
- (D) All documents required or requested shall be in electronic format.
- (E) The Contractor agrees to expeditiously provide, during work on the project and for six years after the projection completion, such reports, data, information and certifications as may be reasonably required. Such documents and information shall be provided in electronic format.

## EXHIBIT E – SWRCB CLEAN BEACHES SPECIAL CONDITIONS

### 11. STATE REVIEWS AND INDEMNIFICATION

The parties agree that review or approval of Project plans and specifications by the SWRCB is for administrative purposes only and does not relieve the Contractor of its responsibility to properly plan, design, construct, operate, and maintain the Project. As between the SWRCB and the Contractor, the Contractor agrees that it has sole responsibility for proper planning, design, construction, operation, and maintenance of the Project, and the Contractor agrees to indemnify the SWRCB, the State of California and their officers, agents, and employees against and to hold the same free and harmless from any and all claims, demands, damages, losses, costs, expenses, or liability due or incident to planning, design, construction, operation, or maintenance of the Project.

### 12. SWRCB ACTION: COSTS AND ATTORNEY FEES

Any remedy provided in this contract is in addition to and not in derogation of any other legal or equitable remedy available to the SWRCB as a result of breach of this contract by the Contractor, whether such breach occurs before or after completion of the Project. The SWRCB's exercise of any remedy provided by this contract shall not preclude the SWRCB from pursuing any legal remedy or right otherwise available. In the event of litigation between the parties hereto arising from this contract, the prevailing party shall be entitled to such reasonable costs and/or attorney fees as may be ordered by the court entertaining such litigation.

### 13. COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor agrees that it shall, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and state laws, rules, regulations and guidelines. The Contractor shall comply with, implement, and fulfill all environmental mitigation measures applicable to the Project, and which may otherwise be required by this Contract, "CEQA", and the State CEQA Guidelines.

### 14. DAMAGES FOR BREACH AFFECTING TAX EXEMPT STATUS

If any breach of any of the provisions of this contract by the Contractor will result in the loss of tax exempt status for any State bonds, or if such breach will result in an obligation on the part of the State to reimburse the federal government for any arbitrage profits, the Contractor shall immediately reimburse the State in an amount equal to any damages paid by or loss incurred by the State due to such breach.

### 15. CONSTRUCTION ACTIVITIES and NOTIFICATIONS

For construction projects, the Contractor shall promptly notify the SWRCB in writing of:

- (1) Any substantial change in scope of the Project. No substantial change in Project scope may be undertaken until the Contractor provides written notice of the proposed change to the SWRCB and the SWRCB gives written approval for such change;
- (2) Unscheduled cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of 30 days or more;
- (3) Any circumstance, combination of circumstances, or condition, which is expected to or does delay completion of construction for a period of 90 days or more beyond the estimated date of completion of construction previously provided to the SWRCB;
- (4) Completion of construction of the Project.