

## **Sub-Award Agreement for Sonoma-Marin Drought Resiliency Program (City of Santa Rosa)**

This agreement (“Agreement”) is by and between **Sonoma County Water Agency** a body corporate and politic of the State of California (“Sonoma Water”) and **City of Santa Rosa**, a government agency (“Sub-Recipient”). This Agreement shall govern certain activities and responsibilities carried out by Sub-Recipient on behalf of Sonoma Water, a grantee of the U.S. Department of the Interior, Bureau of Reclamation. The Effective Date of this Agreement is the date the Agreement is last signed by the parties to the Agreement, unless otherwise specified in Article 9 (Term of Agreement).

### **RECITALS**

1. The WaterSMART FY 2023 Water and Energy Efficiency Grants (WEEG) program administered by the United States Bureau of Reclamation (Reclamation), provides funding for projects that result in quantifiable water savings, implement renewable energy components, and support broader sustainability benefits. These projects conserve and use water more efficiently, increase the production of renewable energy, mitigate conflict risk in areas at a high risk of future water conflicts, and accomplish other benefits that contribute to sustainability in the Western United States.
2. The Sonoma-Marin Saving Water Partnership (Partnership) comprises 13 water utilities in Sonoma and Marin counties collectively addressing regional water efficiency solutions.
3. In July 2022, Sonoma Water, on behalf of the Partnership, applied for \$2,000,000 in grant funds for the Sonoma-Marin Drought Resiliency Program (Program) that will offer consumer rebates for water saving measures, including turf removal, replacement of inefficient clothes washing machines, installation of home water-use monitoring devices, smart irrigation controllers, and a direct install fixture program.
4. Eleven of the water utilities (Participating Agencies), will implement the Program. Participating Agencies include the City of Cloverdale, City of Cotati, City of Healdsburg, Marin Municipal Water District, North Marin Water District, City of Petaluma, City of Rohnert Park, City of Santa Rosa, City of Sonoma, Valley of the Moon Water District, and Town of Windsor.
5. On February 16, 2024, Reclamation and Sonoma Water executed a grant agreement in the amount of \$2,000,000. Sonoma Water will act as the pass-through entity to administer the grant for Participating Agencies. Sonoma Water and Participating Agencies have committed to provide an additional \$2,444,447 in non-Federal matching funds, for a total project cost of \$4,444,447.

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

## **A G R E E M E N T**

### **1. RECITALS**

1.1. The above recitals are true and correct.

### **2. LIST OF EXHIBITS**

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

- a. Exhibit A: Program Scope.
- b. Exhibit B: Schedule of Programs and Costs.
- c. Exhibit B-1: Amended Schedule of Programs and Costs.
- d. Exhibit C: Insurance Requirements.
- e. Exhibit D: Federal Award Identification and Pass-Through Requirements.
- f. Exhibit E: Performance Report Templates.

### **3. SUB-RECIPIENT'S RESPONSIBILITIES**

3.1. *Sub-Recipient's Program Participation:* Programs are identified in Exhibit A (Program Scope). Sub-Recipient shall participate in specific programs identified in Exhibit B (Schedule of Programs and Costs), or as modified by Exhibit B-1 (Amended Schedule of Programs and Costs).

3.2. *Federal Grant Funding:* Sub-Recipient is informed and aware that this Agreement is funded by a federal grant agreement between Bureau of Reclamation and Sonoma County Water Agency which grant is conditioned upon various terms that apply to Sub-Recipient. Sub-Recipient has reviewed the documents attached hereto as Exhibit D (Federal Award Identification and Pass-Through Requirements) and hereby agrees to comply with them to the extent they apply to a Recipient or Subrecipient. In the event there is a conflict between the body of this Agreement and Exhibit D, the provisions in the body Exhibit D shall control over the provisions of this Agreement.

3.3. *Match Funds:* Grant terms require Sub-Recipient to provide match funding in the amount listed in Exhibit B (Schedule of Program Costs). Rebates, equipment, and other program costs incurred between February 16, 2024 and September 30, 2026 can be applied to match or reimbursable program costs. Match and reimbursable expenses shall occur concurrently.

3.4. *Pre-Award Costs:* Grant terms permit Sub-Recipient to submit for reimbursement costs incurred on or after April 1, 2022 if those costs are allowable, allocable, and reasonable under the terms and conditions of the federal grant agreement.

3.5. *Marketing:* Conduct marketing to promote awareness of Sub-Recipient-run Programs. Retain copies of all marketing materials and examples of rebate applications. Costs related to program marketing are the responsibility of Sub-recipient and are not reimbursable under this agreement.

- 3.6. *Performance Progress and Financial Reports:* Provide quarterly reports of services performed and other data required under grant programs, in the formats shown in Exhibit E (Performance Report Templates). Reports for activity shall be submitted to Sonoma Water as specified in Exhibit E, Performance Report Templates. An additional closeout (final) report will be required prior to agreement termination.
- 3.7. *Communication:* Provide regular communication monthly via email or phone with Sonoma Water on budget tracking and other issues as required.
- 3.8. *Monitoring:* Provide access to work sites, records, programs, or procedures in order to ensure compliance with terms and conditions of the Grant agreement.

#### **4. SONOMA WATER'S RESPONSIBILITIES**

- 4.1. *Coordination and Grant Administration:* Coordinate, document, invoice, and report as required by the grant terms, including the Programs described in Exhibit A.
- 4.2. *Reporting and Reimbursement Requests to Reclamation:* Prepare required reporting data and invoices and submit to Reclamation according to the terms of the federal grant agreement.
- 4.3. *Disbursement of Grant Funds:* Disburse funds according to the federal grant agreement.

#### **5. COORDINATION**

- 5.1. *Coordination:* Sub-Recipient shall cooperate with Sonoma Water in the performance of all work hereunder. Sub-Recipient shall coordinate the work with Sonoma Water's Project Manager. Contact information and mailing addresses:

<b>Sonoma Water</b>	<b>Sub-Recipient</b>
Project Manager: Lauren Lum  Phone: (707) 547-1933 Email: Lauren.Lum@scwa.ca.gov  Contract Manager: Brad Elliott   Phone: 707-547-1060 Email: brad.elliott@scwa.ca.gov 404 Aviation Boulevard Santa Rosa, California 95403-9019	Contact: Peter Martin, Deputy Director Water Resources 69 Stony Circle Santa Rosa, California 95401 Phone: (707) 543-4294 Email: PMartin@srcity.org
<b>Remit quarterly reports to:</b>	<b>Remit payments to:</b>
Lauren Lum Same address as above	Same address as above

**6. PAYMENT TO SUB-RECIPIENT**

- 6.1. *Program Maximum Obligations:* Sub-Recipient’s obligation under this Agreement shall not exceed the amounts listed in Exhibit B (Schedule of Program Costs), or an amendment to that Exhibit. Sonoma Water anticipates receiving a maximum of \$2,000,000 in grant funding for all Participating Agencies and must collect and invoice for an additional \$2,444,447 in non-federal matching funds from Participating Agencies, for a total program cost of \$4,444,447.
- a. *Sub-Recipient-run Programs:* Estimated amount for Sub-Recipient-run Programs is detailed in Exhibit B.
  - b. *Modification.* Estimated amounts in Exhibit B may be adjusted, as mutually agreed in writing by the parties using the form included in Exhibit B-1 (Amended Schedule of Program Costs), provided total cost does not exceed \$2,000,000 for all Participating Agencies.
- 6.2. *Method of Payment:* Sub-Recipient shall be paid in accordance with the following terms:
- a. Sub-Recipient shall be paid in accordance with Exhibit B (Schedule of Program Costs). Expenses not expressly authorized by the Agreement shall not be reimbursed.
  - b. Sub-Recipient shall not be entitled to any additional payment for any expenses incurred in completion of the services.
  - c. Sub-Recipient will be reimbursed for Program expenditures when grant funds become available. Sonoma Water will distribute payments to Sub-Recipient according to grant guidelines.
  - d. Sub-Recipient shall be responsible for providing match funding in accordance with 3.3 above.

- 6.3. *Quarterly Reports:* Payment is subject to receipt of the quarterly reports; format provided in Exhibit E (Performance Report Templates).
- 6.4. *Excess Costs:* If the Program costs exceed the total amount described in this Agreement for Sub-Recipient–run Programs, Sub-Recipient shall pay for materials and services. Excess costs will be reported as additional matching funds for the grant and are not eligible for additional grant reimbursement.

## **7. FINANCIAL ACCOUNTABILITY AND GRANT ADMINISTRATION**

- 7.1. *Financial Management.* Sub-Recipient shall maintain a financial management system and financial records and shall administer funds received pursuant to this Agreement in accordance with all applicable federal and state requirements, including without limitation [2 CFR 200.302\(b\)](#). Sub-Recipient shall adopt such additional financial management procedures as may from time to time be prescribed by Sonoma Water if required by applicable laws, regulations, or guidelines from its federal and state government funding sources. Sub-Recipient shall maintain detailed, itemized documentation and records of all income received and expenses incurred pursuant to this Agreement.
- 7.2. *Indirect Cost Rate.* The Federal Award Identification data in Exhibit D contains the indirect cost rate that applies to this subaward.
- 7.3. *Financial and Other Reports.* Sub-Recipient shall submit to Sonoma Water such reports and back-up data as may be required by Reclamation or Sonoma Water, including without limitation such reports which enable Sonoma Water to submit its own semi-annual financial and annual programmatic reports to Reclamation. Sub-Recipient shall submit reports required to Sonoma Water in accordance with the schedule included in Exhibit E (Performance Report Templates). This provision shall survive the expiration or termination of this Agreement with respect to any reports which Sub-Recipient is required to submit to Reclamation following the expiration or termination of this Agreement.
- 7.4. *Improper Payments.* Any item of expenditure by Sub-Recipient under the terms of this Agreement which is found by auditors, investigators, and other authorized representatives of Sonoma Water, Reclamation, the U.S. Government Accountability Office or the Comptroller General of the United States to be improper, unallowable, in violation of federal or state law or the terms of the federal grant agreement or this Agreement, or involving any fraudulent, deceptive, or misleading representations or activities of Sub-Recipient, shall become Sub-Recipient’s liability, to be paid by Sub-Recipient from funds other than those provided by Sonoma Water under this Agreement or any other agreements between Sonoma Water and Sub-Recipient. This provision shall survive the expiration or termination of this Agreement.
- 7.5. *Audited Financial Statements.* In any fiscal year in which Sub-Recipient expends \$750,000 or more in federal awards during such fiscal year, including awards

received as a subrecipient, Sub-Recipient must comply with the federal audit requirements contained in 2 CFR 200 Subpart F, Audit Requirements. In signing this Agreement, Sub-Recipient acknowledges that it understands and will comply with the provisions of 2 CFR 200 Subpart F, Audit Requirements. If such an audit is required, Sub-Recipient agrees to provide Sonoma Water with a copy of the audit report within nine months of Sub-Recipient's fiscal year end. Questions regarding 2 CFR 200 Subpart F, Audit Requirements can be directed to the Sonoma County Auditor-Controller Treasurer-Tax Collector's Office - General Accounting Division.

7.6. Program Closeout.

- a. Final payment request(s) under this Agreement will be the final quarterly report and reimbursement request identified in Exhibit E, Performance Report Templates, and must be received by Sonoma Water no later than the date specified therein. No payment request will be accepted by Sonoma Water after this date without authorization from Sonoma Water. In consideration of the execution of this Agreement by Sonoma Water, Sub-Recipient agrees that acceptance of final payment from Sonoma Water will constitute an agreement by Sub-Recipient to release and forever discharge Sonoma Water, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Sub-Recipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this Agreement.
- b. Sub-Recipient will provide a Final Program Report to Sonoma Water in a format to be determined by the date specified in Exhibit E, Performance Report Templates.

7.7. Sub-Recipient obligations to Sonoma Water under this Agreement shall not terminate until all closeout requirements are completed to the satisfaction of Sonoma Water. Such requirements shall include, without limitation, submitting final reports to Sonoma Water and providing any closeout-related information requested by Sonoma Water by the deadlines specified by Sonoma Water. This provision shall survive the expiration or termination of this Agreement.

**8. COOPERATION IN MONITORING AND EVALUATION.**

8.1. *Sonoma Water Responsibilities.* Sonoma Water shall monitor, evaluate, and provide guidance and direction to Sub-Recipient in the conduct of approved services performed under this Agreement. Sonoma Water has the responsibility to determine whether Sub-Recipient has spent funds in accordance with applicable laws, regulations, including the federal audit requirements and agreements and shall monitor the activities of Sub-Recipient to ensure that Sub-Recipient has met such requirements. Sonoma Water may require Sub-Recipient to take corrective action if deficiencies are found.

8.2. Sub-Recipient Responsibilities.

- a. Sub-Recipient shall permit Sonoma Water to carry out monitoring and evaluation activities, including any performance measurement system required by applicable law, regulation, funding sources guidelines or by the terms and conditions of the federal grant agreement, and Sub-Recipient agrees to ensure, to the greatest extent possible, the cooperation of its agents, employees and board members in such monitoring and evaluation efforts. This provision shall survive the expiration or termination of this Agreement.
- b. Sub-Recipient shall cooperate fully with any reviews or audits of the activities under this Agreement by authorized representatives of Sonoma Water, Reclamation, the U.S. Government Accountability Office or the Comptroller General of the United States and Sub-Recipient agrees to ensure to the extent possible the cooperation of its agents, employees and board members in any such reviews and audits. This provision shall survive the expiration or termination of this Agreement.

9. **TERM OF AGREEMENT**

- 9.1. The term of this Agreement shall be from February 16, 2024 (“Effective Date”), to January 28, 2027, unless terminated earlier in accordance with the provisions of Article 10 (Termination).

10. **TERMINATION**

- 10.1. *Authority to Terminate:* Sonoma Water’s right to terminate may be exercised by Sonoma Water’s General Manager.
- 10.2. *Termination for Cause:* Notwithstanding any other provision of this Agreement, should Sub-Recipient fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, Sonoma Water may immediately terminate this Agreement by giving Sub-Recipient written notice of such termination, stating the reason for termination.
- 10.3. *Payment Upon Termination:* Upon termination of this Agreement by Sonoma Water, Sub-Recipient shall be entitled to receive as full payment for all services satisfactorily rendered and reimbursable expenses properly incurred hereunder, a pursuant to Paragraph 6 (Payment to Sub-Recipient).
- 10.4. *Termination for Non-Appropriation:* Sonoma Water may terminate this Agreement at any time, upon giving Sub-Recipient thirty (30) days written notice, for any of the following reasons:
- a. Sonoma Water has exhausted all funds legally available for payments to become due under this Agreement.

- b. Funds which have been appropriated for purposes of this Agreement are withheld and are not made available to Sonoma Water.

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

## **11. MUTUAL INDEMNIFICATION**

11.1. Each party to this Agreement (the “Indemnifying Party”) agrees to accept all responsibility for loss or damage to any person or entity, and to defend, indemnify, hold harmless and release the other party (the “Indemnified Party”), and the Indemnified Party’s supervisors, officers, agents, and employees, from and against any and all liabilities, actions, claims, damages, disabilities, or expenses that may be asserted by any person or entity, including the Indemnifying Party, to the extent resulting from the Indemnifying Party’s breach of any material term of this Agreement, or Indemnifying Party’s negligence or willful misconduct in connection with the performance of this Agreement, but excluding liabilities, actions, claims, damages, disabilities, or expenses to the extent arising from Indemnified Party’s breach of any material term of this Agreement, or Indemnified Party’s negligence or willful misconduct in connection with the performance of this Agreement. The Indemnified Party shall have the right to select its legal counsel at the Indemnifying Party’s expense, subject to the Indemnifying Party’s approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for the parties hereto or their agents under workers’ compensation acts, disability benefit acts, or other employee benefit acts.

## **12. INSURANCE**

12.1. With respect to performance of work under this Agreement, Sub-Recipient shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit C (Insurance Requirements).

## **13. EXTRA OR CHANGED WORK**

13.1. Except as provided in 6.1.b (Modification), extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Changes to lengthen time schedules or make minor modifications to the scope of work, which do not increase the amount paid under the Agreement, may be executed by Sonoma County Water Agency’s General Manager in a form approved by County Counsel. The parties expressly



recognize that Sonoma Water personnel are without authorization to order all other extra or changed work or waive Agreement requirements. Failure of Sub-Recipient to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Sub-Recipient shall be entitled to no compensation whatsoever for the performance of such work. Sub-Recipient further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of Sonoma Water.

#### **14. REPRESENTATIONS OF SUB-RECIPIENT**

- 14.1. *Labor Code Compliance:* Sub-Recipient shall keep informed of and take all measures necessary to ensure compliance with applicable Labor Code requirements, including, but not limited to, §1720 et seq. of the Labor Code regarding public works, limitations on use of volunteer labor (Labor Code §1720.4), labor compliance programs (Labor Code §1771.5) and payment of prevailing wages for work done and funded pursuant to these Guidelines, including any payments to the Department of Industrial Relations under Labor Code §1771.3.
- 14.2. *Nondiscrimination:* During the performance of this Agreement, Sub-Recipient and its contractors or subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, gender identity, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), marital/domestic partner status, and denial of medical and family care leave or pregnancy disability leave. Sub-Recipient and its contractors or subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Sub-Recipient and its contractors or subcontractors shall comply with the provisions of the California Fair Employment and Housing Act (Government Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, §11000 et seq.). The applicable regulations of the Fair Employment and Housing are incorporated into this Agreement by reference. Sub-Recipient and its contractors or subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. Sub-Recipient shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.
- 14.3. *Workers' Compensation:* Sub-Recipient affirms that it is aware of the provisions of §3700 of the 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 Sub-Recipient affirms that it will comply with such provisions before commencing the performance of the work under this Agreement and will make its contractors and subcontractors aware of this provision.

- 14.4. *No Suspension or Debarment:* Sub-Recipient warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Sub-Recipient also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration.
- 14.5. *Accounting, Audits, and Records Maintenance:* Sub-Recipient and its contractors and subcontractors shall maintain books, records, and other documents pertinent to their work under this Agreement in accordance with generally accepted accounting principles and practices. Records are subject to inspection by Sonoma Water and Reclamation at any and all reasonable times. All records of Sub-Recipient or its contractor or subcontractor shall be preserved for the purpose of Federal audits for at least five (5) years after project completion or final billing, whichever comes later.
- 14.6. *Inspections:* Sonoma Water and Reclamation shall have the right to inspect the work being performed at any and all reasonable times, providing a minimum of 24-hour notice, during the term of this Agreement. Sub-Recipient acknowledges that Program documents may be subject to the Public Records Act (California Government Code Section 6250 et. Seq.). Sonoma Water and Reclamation shall have the right to inspect and make copies of these documents at any and all reasonable times during the term of this Agreement to ensure compliance with the terms and conditions of this Agreement. During regular office hours, Sonoma Water and Reclamation shall have the right to inspect and to make copies of any books, records, or reports of the Sub-Recipient relating to this Grant Agreement. Sub-Recipient shall maintain and shall make available at all times for such inspection accurate records of its costs, disbursements, and receipts with respect to its activities under this Agreement. Failure or refusal by Sub-Recipient to comply with this provision shall be considered a breach of this Grant Agreement, and Sonoma Water may withhold disbursements to Sub-Recipient or take any other action it deems necessary to protect its interests. Sub-Recipient shall include provisions ensuring such access in all its contracts or subcontracts entered into for this Agreement.
- 14.7. *Drug-Free Workplace Certification (Certification of Compliance):* By signing this Agreement, Sub-Recipient, its contractors or subcontractors hereby certify, under penalty of perjury under the laws of State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code

§8350 *et seq.*) and have or will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees, contractors, and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors, or subcontractors for violations, as required by Government Code section 8355(a)(1).
- b. Establish a Drug-Free Awareness Program, as required by Government Code section 8355(a)(2) to inform employees, contractors, or subcontractors about all of the following:
  - i. The dangers of drug abuse in the workplace,
  - ii. Sub-Recipient's policy of maintaining a drug-free workplace,
  - iii. Any available counseling, rehabilitation, and employee assistance programs, and
  - iv. Penalties that may be imposed upon employees, contractors, and subcontractors for drug abuse violations.
- c. Provide, as required by Government Code section 8355(a)(3), that every employee, contractor, and/or subcontractor who works under this Agreement:
  - i. Will receive a copy of Sub-Recipient's drug-free policy statement, and
  - ii. Will agree to abide by terms of Sub-Recipient's condition of employment, contract or subcontract.

14.8. *Ownership of Work Product:* All reports, drawings, graphics, plans, and studies, in their final form and format, assembled or prepared by Sub-Recipient or Sub-Recipient's subcontractors, consultants, and other agents in connection with this Agreement, shall be the property of Sonoma Water. Sub-Recipient shall deliver such materials to Sonoma Water upon request in their final form and format. Such materials shall be and will remain the property of Sonoma Water without restriction or limitation. Document drafts, notes, and emails of Sub-Recipient and Sub-Recipient's subcontractors, consultants, and other agents shall remain the property of those persons or entities.

## **15. DEMAND FOR ASSURANCE**

15.1. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified

demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article 15 limits Sonoma Water's right to terminate this Agreement pursuant to Article 10 (Termination).

## **16. ASSIGNMENT AND DELEGATION**

- 16.1. *Consent:* Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.
- 16.2. *Subcontracts:* Notwithstanding the foregoing, Sub-Recipient may enter into subcontracts with the subconsultants specifically identified herein. If no subconsultants are listed, then no subconsultants will be utilized in the performance of the work specified in this Agreement.
- 16.3. *Change of Subcontractors or Subconsultants:* If, after execution of the Agreement, parties agree that subconsultants not listed in Paragraph 16.2 will be utilized, Sub-Recipient may enter into subcontracts with subconsultants to perform other specific duties pursuant to the provisions of this Paragraph 16.3. The following provisions apply to any subcontract entered into by Sub-Recipient other than those listed in Paragraph 16.2 above:
- a. Prior to entering into any contract with subconsultant, Sub-Recipient shall obtain Sonoma Water approval of subconsultant. All agreements with subconsultants shall (a) contain indemnity requirements in favor of Sonoma Water in substantially the same form as that contained in Article 11, (b) contain language that the subconsultant may be terminated with or without cause upon reasonable written notice, (c) prohibit the assignment or delegation of work under the agreement to any third party, and (d) include contract provisions specified in 2 CFR 200.327.
- 16.4. *Summary of Subconsultants' Work:* Sub-Recipient shall provide Sonoma Water with a copy of subconsultant contract and summary of work performed by subconsultants with each invoice submitted under Exhibit E. Such summary shall identify the individuals performing work on behalf of subconsultants and the total amount paid to subconsultant, broken down by the tasks listed in the Scope of Work.

## **17. MISCELLANEOUS PROVISIONS**

- 17.1. *No Bottled Water:* In accordance with Sonoma Water Board of Directors Resolution No. 09-0920, dated September 29, 2009, no Sonoma Water funding shall be used to purchase single-serving, disposable water bottles for use in

Sonoma Water facilities or at Sonoma Water-sponsored events. This restriction shall not apply when potable water is not available.

- 17.2. *No Waiver of Breach:* The waiver by Sonoma Water of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.
- 17.3. *Construction:* To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Sub-Recipient and Sonoma Water acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Sub-Recipient and Sonoma Water acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.
- 17.4. *Consent:* Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.
- 17.5. *No Third-Party Beneficiaries:* Except as provided in Article 11 (Mutual Indemnification), nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.
- 17.6. *Applicable Law and Forum:* This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or in the forum nearest to the city of Santa Rosa, in the County of Sonoma.
- 17.7. *Captions:* The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.
- 17.8. *Merger:* This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure section 1856. Each Party acknowledges that, in entering into this Agreement, it has not relied on any representation or undertaking, whether oral or in writing, other than those which are expressly set forth in this

Agreement. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

- 17.9. *Survival of Terms:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- 17.10. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.
- 17.11. *Signature(s): Counterpart; Electronic Signatures:* The parties agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and together which when executed by the requisite parties shall be deemed to be a complete original agreement. Counterparts may be delivered via facsimile, electronic mail (including PDF), or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered, be valid and effective for all purposes, and shall have the same legal force and effect as an original document. This Agreement, and any counterpart, may be electronically signed by each or any of the parties through the use of any commercially available digital and/or electronic signature software or other electronic signature method in compliance with the U.S. federal E-SIGN Act of 2000, California's Uniform Electronic Transactions Act (Cal. Civil Code § 1633.1 et seq.), or other applicable law. By its use of any electronic signature below, the signing party agrees to have conducted this transaction and to execution of this Agreement by electronic means.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date last signed by the parties to the Agreement.

TW 23/24-037

Reviewed as to funds:

By: \_\_\_\_\_  
Sonoma County Water Agency  
Division Manager – Administrative  
Services

Approved as to form:

Approved as to form:

By: \_\_\_\_\_  
Adam Brand, Deputy County Counsel

By: \_\_\_\_\_  
Bob Maddow, Interim Assistant City  
Attorney

Insurance Documentation is on file with  
Sonoma Water

Date/TW Initials: 7/3/24 MA

**Sonoma County Water Agency**

**Sub-Recipient**

By: \_\_\_\_\_  
Grant Davis  
General Manager

By: \_\_\_\_\_  
Name: Jennifer Burke

Authorized per Sonoma County Water  
Agency’s Board of Directors Action  
August 9, 2022

Title: City of Santa Rosa Water Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_





# Exhibit A

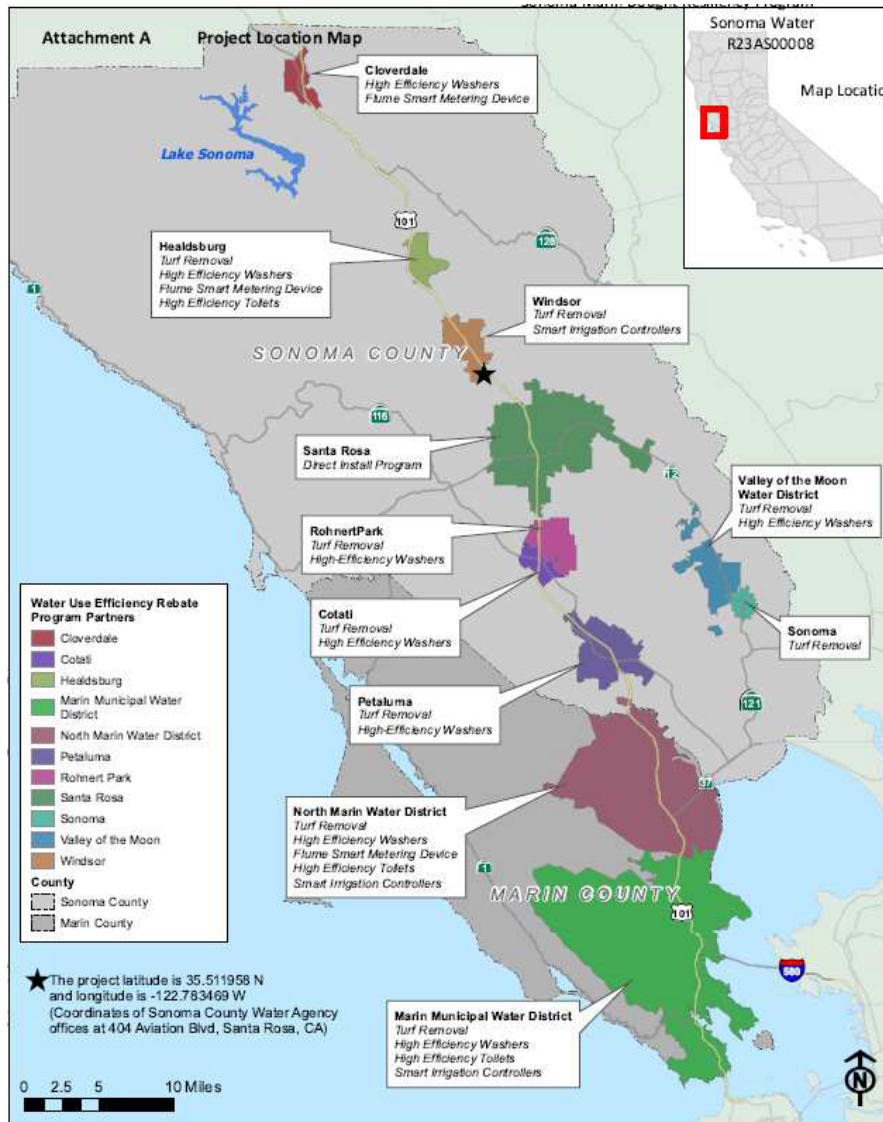
## Program Scope

### 1. REBATE PROGRAMS END ON OR BEFORE 9/30/26

### 2. PROGRAM OVERVIEW

Through the Sonoma-Marín Drought Resiliency Program, Participating Agencies will provide rebates for turf removal, high-efficiency toilets and appliances, water monitoring devices, and smart irrigation controllers, and will directly install indoor plumbing fixtures. Participating Agencies shall record the locations of turf removal, and the locations of all rebates and directly-installed plumbing fixtures, and provide this information to Sonoma Water for federal reporting requirements.

### Project Location Map



### 3. **GRANT FUNDED MEASURES**

- A. *The Water Efficient Landscape Rebate Program (Turf Replacement):* Sub-Recipient may implement the turf replacement program by following established procedures for approving rebate applications, verifying amount of turf removed, and administering rebates. Backup documentation such as copies of checks to customers or rebate applications will be provided upon request.
- B. *High Efficiency Washer Rebate Program:* Sub-Recipient may implement the clothes washer replacement rebate program by following established procedures for approving rebate applications, verifying qualified models of clothes washers, and administering residential rebates. Backup documentation such as copies of checks to customers or rebate applications will be provided upon request.
- C. *High Efficiency Toilet Program:* Participating partners may implement rebates for high efficiency toilets by following established procedures for approving rebate applications, verifying qualified models of toilets purchased, and administering rebates. Backup documentation such as copies of checks to customers or rebate applications will be provided upon request.
- D. *Smart Irrigation Controller Program:* Sub-Recipient may implement rebates for smart irrigation controllers by following established procedures for approving rebate applications and verifying qualified models of irrigation controllers. Backup documentation such as copies of checks to customers or rebate applications will be provided upon request.
- E. *Flume Smart Measuring Device Program:* Sub-Recipient may implement the Flume Smart Measuring Device Installation rebate program by following established procedures for approving rebate applications, verifying Flume installation, administering residential rebates. Backup documentation such as copies of checks to customers or rebate applications will be provided upon request.
- F. *The Direct Install Program:* Sub-Recipient will work with qualified plumbers to install high-efficiency indoor fixture packages in households. These packages may include one ultra-high efficiency toilet (UHET) at 0.8 gallons per flush (gpf), one showerhead at 1.5 gallons per minute (gpm), one faucet aerator at 1.0 gpm and a kitchen faucet aerator at 1.5 gpm. Multiple packages may be installed in one household depending on the need of each household. Sub-Recipient will ensure toilets and fixtures are installed according to program requirements and specifications, including post-installation verification sampling. Management strategies for post-installation monitoring will be adapted and expanded as needed based on sample results to meet the program goals and requirements. Backup documentation such as copies of checks to plumbers or rebate applications will be provided upon request.

G. *Deliverables*

- 1) Quarterly reports to Sonoma Water as specified in Section 3.6 (*Quarterly Progress and Financial Reports*) and Exhibit E (Performance Report Templates) of this Agreement.
- 2) Copies of public outreach, marketing, project photos, and promotional/web link materials.
- 3) Examples of rebate applications.
- 4) Copies of checks or additional backup documentation in support of costs (upon request).
- 5) Final report:
  - a. Provide a final report to Sonoma Water as specified in Exhibit E (Performance Report Templates) of this Agreement to fulfill reporting grant closeout requirements for Reclamation. This will include costs and/or benefits deriving from the Program since completion, among other information. The final report template will be provided closer to the project end date.



## Exhibit B

### Schedule of Programs and Costs

<b>Grant-Funded Measure</b>	<b>Grant rebate maximum</b>	<b>Grant Funds available</b>	<b>Sub-Recipient's Match Obligation</b>
Turf Replacement Program	Up to \$/sq ft	\$0	\$0
High Efficiency Washer Rebate Program	Up to \$ each	\$0	\$0
High Efficiency Toilet Program	Up to \$ each	\$0	\$0
Smart Irrigation Controller Program	Up to \$ each	\$0	\$0
Flume Smart Measuring Device Program	Up to \$ each	\$0	\$0
Direct Install Program	Up to \$325.59 per package	\$813,966.00	\$994,848.00
Total Available Funding		\$813,966.00	\$994,848.00

Note: Additional funds may become available if Participating Agencies do not use allocated amounts. Amount of funding and eligible quantities may be modified by using Exhibit B-1- Amended Schedule of Program Costs.



## Exhibit B-1

### Amended Schedule of Programs and Costs

Grant-Funded Measure	Grant rebate maximum	Grant Funds available	Sub-Recipient Match Obligation
Turf Removal Rebate	Up to \$/sq ft		
High Efficiency Washer Rebate	Up to \$ each		
Flume Home Water Measuring Rebate	Up to \$ each		
High Efficiency Toilet Rebate	Up to \$ each		
Smart Irrigation Controllers Rebate	Up to \$ each		
Direct Install Program	Up to \$ each		
Total Available Funding		XXXX.XX	XXXX.XX

Sonoma Water and Sub-Recipient mutually agree that quantities and dollar amounts listed above will replace any earlier version of Exhibit B. All conditions of the Agreement other than those specifically changed by this amended Exhibit shall remain in effect.

**Sub-Recipient**

**Sonoma County Water Agency**

By: \_\_\_\_\_

Reviewed by Paul Piazza, Program Manager:

Title: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Brad Elliott, Grant Manager

Sonoma Water copies to:  
Accounting and Records  
Joan Hultberg

Date: \_\_\_\_\_





# Exhibit C

## Insurance Requirements

### 1. **INSURANCE TO BE MAINTAINED BY SUB-RECIPIENT**

Sub-Recipient shall maintain insurance, pooled risk, and/or self-insurance as described below and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. The insurance shall be maintained for the entire term of the Agreement after all funds have been disbursed.

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

#### 1.1. Workers Compensation and Employers Liability Insurance

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

#### 1.2. General Liability Insurance

- a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- b. Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and either Commercial Excess or Commercial Umbrella Liability Insurance. If Sub-Recipient maintains higher limits than the specified minimum limits, Sonoma Water requires and shall be entitled to coverage for the higher limits maintained by Sub-Recipient.

- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by Sonoma Water. Sub-Recipient is responsible for any deductible or self-insured retention and shall fund it upon Sonoma Water's written request, regardless of whether Sub-Recipient has a claim against the insurance or is named as a party in any action involving Sonoma Water.
- d. Sonoma County Water Agency, its officers, agents, and employees, shall be endorsed as additional insureds or additional covered parties for liability arising out of Sub-Recipient's ongoing operations. (ISO endorsement CG 20 26 or equivalent).
- e. The insurance provided to the additional insureds/additional covered parties shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
- f. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).
- g. The policy shall cover inter-insured suits between Sonoma Water and Sub-Recipient and include a "separation of insureds" or "severability" clause which treats each insured separately.
- h. Required Evidence of Insurance:
  - i. Copy of the additional insured endorsement or policy language granting additional insured status; and
  - ii. Certificate of Insurance.

1.3. Automobile Liability Insurance

- a. Minimum Limit: \$1,000,000 combined single limit per accident. The required limit may be satisfied by a combination of Automobile Liability Insurance and either Commercial Excess or Commercial Umbrella Liability Insurance.
- b. Insurance shall cover all owned vehicles if Sub-Recipient owns vehicles.
- c. Insurance shall cover hired and non-owned vehicles.
- d. Required Evidence of Insurance: Certificate of Insurance.

1.4. Standards for Insurance Companies

- a. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

1.5. Documentation

- a. The Certificate of Insurance must include the following reference: TW 23/24-037.
- b. Sub-Recipient shall submit required Evidence of Insurance prior to the execution of this Agreement. Sub-Recipient agrees to maintain current

Evidence of Insurance on file with Sonoma Water for the required period of insurance.

- c. The name and address for mailing Additional Insured endorsements and Certificates of Insurance is: Sonoma County Water Agency, 404 Aviation Boulevard, Santa Rosa, CA 95403-9019.
- d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
- e. Sub-Recipient shall provide immediate written notice if: (1) any of the required insurance policies are terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
- f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

1.6. Policy Obligations

- a. Sub-Recipient's indemnity and other obligations shall not be limited by the foregoing insurance requirements.



June 25, 2024

Sonoma County Water Agency  
404 Aviation Boulevard  
Santa Rosa, CA 95903

RE: City of Santa Rosa Certificate of Self-Insurance Coverage

To Whom It May Concern:

This letter serves as notification that the City of Santa Rosa is a self-insured entity with its S.I.R. of \$1,000,000. California Joint Powers Risk Management Authority is the additional entity who provides the excess of the initial \$1,000,000 per occurrence with no aggregate limit.

Regarding workers' compensation coverage, a Certificate of Consent to Self-Insure issued to the City of Santa Rosa by the Department of Industrial Relations was effective March 1, 1993 and is still enforced.

The City works on a Fiscal Year status. Certificates of renewal will be sent during the first week of July until the fulfillment of the agreement date.

If additional information is needed, please contact Risk Management at [risk@srcity.org](mailto:risk@srcity.org).

Sincerely,

*Nick Vinh*

Nick Vinh (Jun 25, 2024 16:23 PDT)

Nick Vinh  
Risk Manager

**Human Resources Department | Risk Management Division**  
100 Santa Rosa Avenue | Room 100 | Santa Rosa, CA 95404  
Tel. (707) 543-3024 | Fax (707) 543-3035 | [risk@srcity.org](mailto:risk@srcity.org)



# CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

Accredited with Excellence from the California Association of Joint Powers Authorities

## CERTIFICATE OF COVERAGE

**Certificate Holder and**

**Additional Covered Party:**

Sonoma County Water Agency, its officers, agents, and employees.

404 Aviation Boulevard

Santa Rosa, CA 94903

**This certifies that the coverage**

**Described herein has been issued to:** City of Santa Rosa

**Description of Activity:** Sonoma-Marin Drought Resiliency Program, High Efficiency Toilet Program : direct install program for high efficiency toilets throughout City of Santa Rosa (TW 23/24-037)

**Date(s) of Activity:** 02-16-2024 to 01-28-2027

**Location of Activity:** various locations City of Santa Rosa, CA

Entity Providing Coverage	Excess Coverage	Certificate Expiration Date
California Joint Powers Risk Management Authority	\$1,000,000 excess of \$1,000,000	June 30, 2025

The following coverage is in effect and is provided through participation in a risk sharing joint powers authority: general liability and automobile liability pooled self-insurance, as defined in the Memorandum of Coverage on file with the entity and which will be made available upon request.

The coverage being provided is limited to the activity and the time period indicated herein and is subject to all the terms, conditions and exclusions of the Memorandum of Coverage of the California Joint Powers Risk Management Authority.

Pursuant to Section II, subsection 8, relating to the definition of a covered party, the certificate holder named herein is only an additional covered party for covered claims arising out of the activity described herein and is subject to the limits stated herein.

Coverage is in effect at this time and will not be cancelled, limited or allowed to expire at a date other than that indicated herein except upon 30 days written notice to the certificate holder.

06-25-2024

Date

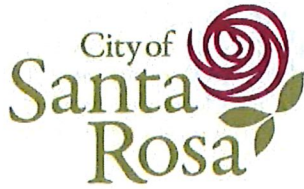
Authorized Signature

Tony Giles, CPCU, ARM-P, General Manager

Name and Title (Print or type)

Certificate Number: FORM141906

Form C



**HUMAN RESOURCES DEPARTMENT  
RISK MANAGEMENT DIVISION**  
100 SANTA ROSA AVE. RM. 1  
SANTA ROSA, CA 95404  
(707) 543-3024 FAX (707) 543-3035

**CERTIFICATE OF COVERAGE**

**CERTIFICATE HOLDER:** Sonoma County Water Agency, its officers, agents, and employees  
404 Aviation Boulevard  
Santa Rosa, CA 95903

**THIS CERTIFIES THAT THE COVERAGE DESCRIBED HEREIN HAS BEEN ISSUED TO:** THE CITY OF SANTA ROSA

**DATES(S) OF ACTIVITY:** 02-16-2024 to 01-28-2027

**LOCATION OF ACTIVITY:** Sonoma-Marín Drought Resiliency Program.  
High Efficiency Toilet Program: direct install program for high efficiency toilets throughout City of Santa Rosa (TW 23/24-037)

**TYPE OF COVERAGE:** WORKERS' COMPENSATION & EMPLOYER'S LIABILITY

**ENTITY PROVIDING COVERAGE**

<u>WORKERS' COMPENSATION</u>	<u>COVERAGE LIMITS</u>	<u>CERTIFICATE EXPIRATION DATE</u>
CITY OF SANTA ROSA	\$ 500,000	JUNE 30, 2025
CSAC-EIA	statutory limits	JUNE 30, 2025

**EMPLOYER'S LIABILITY**

CITY OF SANTA ROSA	\$ 500,000	JUNE 30, 2025
CSAC-EIA	\$ 500,000	JUNE 30, 2025

The following coverage is in effect and is provided through self-insurance and/or participation in a risk sharing joint powers authority: workers' compensation and employees' liability defined in the Memorandum of Coverage on file with the entity and which will be made available upon request.

Coverage is in effect at this time and will not be cancelled, limited, or allowed to expire at a date other than that indicated herein except upon 30 days' written notice to the certificate holder.

June 25, 2024  
DATE

Nick Vinh  
Nick Vinh (Jun 25, 2024 16:23 PDT)

NICK VINH, RISK MANAGER



HUMAN RESOURCES DEPARTMENT  
RISK MANAGEMENT DIVISION  
100 SANTA ROSA AVE. RM. 1  
SANTA ROSA, CA 95404  
(707) 543-3024 FAX (707) 543-3035

**CERTIFICATE OF COVERAGE**

**CERTIFICATE HOLDER:** Sonoma County Water Agency, its officers, agents, and employees  
404 Aviation Blvd  
Santa Rosa, CA 95903

**THIS CERTIFIES THAT THE COVERAGE  
DESCRIBED HEREIN HAS BEEN ISSUED TO:** THE CITY OF SANTA ROSA

**DATES(S) OF ACTIVITY:** 02-16-2024 to 01-28-2027

**LOCATION OF ACTIVITY:** Sonoma-Marin Drought Resiliency Program.  
High Efficiency Toilet Program: direct install program for high  
efficiency toilets throughout City of Santa Rosa (TW 23/24-037)

**TYPE OF COVERAGE:** AUTOMOBILE LIABILITY

<b><u>ENTITY PROVIDING COVERAGE</u></b>	<b>COVERAGE LIMITS</b>	<b>CERTIFICATE EXPIRATION DATE</b>
CITY OF SANTA ROSA	\$ 1,000,000	JUNE 30, 2025

The following coverage is in effect and is provided through self-insurance and/or participation in a risk sharing joint powers authority: comprehensive general and automobile liability as defined in the Memorandum of Coverage on file with the entity.

Coverage is in effect at this time and will not be cancelled, limited, or allowed to expire at a date other than that indicated herein except upon 30 days' written notice to the certificate holder.

June 25, 2024  
DATE

*Nick Vinh*  
Nick Vinh (Jun 25, 2024 16:23 PDT)

NICK VINH, RISK MANAGER





## Exhibit D

### Federal Award Identification and Pass-through Terms and Conditions

<u>Contents</u>	<u>Page</u>
D.1 Federal Award Identification Form	D-2
D.2 Regulatory Compliance and Public Laws	D-3
D.3 Reclamation Standard Terms and Conditions	D-7
D.4 Department of Interior Standard Terms and Conditions	D-41

#### Definitions used in this Exhibit

Federal Awarding Agency	U.S. Bureau of Reclamation or U.S. Department of the Interior
Pass-through Entity	Sonoma County Water Agency
Subrecipient	Entity identified in Federal Award Identification Form on page D-2.
Recipient	Applies to Sonoma County Water Agency and Subrecipient
Non-Federal Entity	Applies to Sonoma County Water Agency and Subrecipient

**D.1 Federal Award Identification Form**

1. Subrecipient name	City of Santa Rosa
2. Subrecipient unique entity identifier	MPMQPX61FMW7
3. Federal Award Identification Number (FAIN)	R24AP00002
4. Federal Award of award to recipient by the Federal agency	02/16/2024
5. Subaward Period of Performance Start and End Date	02/16/2024 through 9/30/2026
6. Subaward Budget Period Start and End Date: Pre-award costs incurred on or after:	02/16/2024 through 9/30/2026 04/01/2022
7. Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient	\$813,966.00
8. Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current financial obligation	\$813,966.00
9. Total Amount of the Federal Award committed to the subrecipient by the pass-through entity	\$813,966.00
10. Federal award project description	See Project Description Below
11. Federal Funding Agency:	US Dept. of the Interior, Bureau of Reclamation
12. Pass-through Entity	Sonoma County Water Agency
13. Pass-through Entity Awarding Official	Grant Davis, General Manager
14. Assistance Listings number and Title	CDFA/ANL: 15.507 - WaterSMART (Sustain and Manage America's Resources for Tomorrow)
15. Federal award amount:	\$2,000,000
16. Is the award for Research and Development?	No
17. Indirect cost rate for the Federal award	10%

**Project Description:** The Sonoma County Water Agency will implement a water conservation rebate program in partnership with 12 regional water utility partners that have joined together to work on regional solutions for water use efficiency. The Sonoma-Marin Drought Resiliency Program includes removing over 1.7 million square feet of turf grass, replacing 650 inefficient washing machines with high-efficiency models, installing 215 home water monitoring devices, replacing 700 high- volume toilets with high efficiency models, and installing 815 smart irrigation controllers. In addition, the City of Santa Rosa will offer a direct-install program to provide 2,500 households with high-efficiency indoor fixtures, including low flow showerheads and faucet aerators. The project is expected to result in annual water savings of 342 acre-feet, which will remain in the Russian River system.

## **D.2 Regulatory Compliance and Public Laws**

### **1. REGULATORY COMPLIANCE**

The Recipient agrees to comply or assist Reclamation with all regulatory compliance requirements and all applicable state, Federal, and local environmental and cultural and paleontological resource protection laws and regulations as applicable to this project. These may include, but are not limited to, the National Environmental Policy Act (NEPA), including the Council on Environmental Quality and Department of the Interior regulations implementing NEPA, the Clean Water Act, the Endangered Species Act, consultation with potentially affected Tribes, and consultation with the State Historic Preservation Office. Once regulatory compliance is complete, a Reclamation GO will issue a Notice to Proceed along with the compliance documentation notifying the Recipient that compliance is complete and on-the-ground work can commence on the project. If the Recipient begins project activities that require environmental or other regulatory compliance approval prior to receipt of written notice from the Reclamation GO that all such clearances have been obtained, then Reclamation reserves the right to initiate remedies for non-compliance as defined by 2 CFR 200.339 up to and including unilateral termination of this agreement per 2 CFR 200.340.

### **2. AGRICULTURAL OPERATIONS [Public Law 111-11, Section 9504(a)(3)(B)]**

The Recipient shall not use any associated water savings to increase the total irrigated acreage of the Recipient or otherwise increase the consumptive use of water in the operation of the Recipient, as determined pursuant to the law of the State in which the operation of Recipient is located.

### **3. TITLE TO IMPROVEMENTS [Public Law 111-11, Section 9504(a)(3)(D)]**

If the activities funded under this Agreement result in an infrastructure improvement to a federally owned facility, the Federal Government shall continue to hold title to the facility and improvements to the facility.

### **4. OPERATION AND MAINTENANCE COSTS [Public Law 111-11, Section 9504(a)(3)(E)(iv.)]**

The non-Federal share of the cost of operating and maintaining any infrastructure improvement funded through this Agreement shall be 100 percent.

### **5. LIABILITY [Public Law 111-11, Section 9504(a)(3)(F)]**

- (a) **IN GENERAL.**—Except as provided under chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”), the United States shall not be liable for monetary damages of any kind for any injury arising out of an act, omission, or occurrence that arises in relation to any facility created or improved under this Agreement, the title of which is not held by the United States.

- (b) **TORT CLAIMS ACT.**—Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”).

## 6. BUY AMERICA DOMESTIC PROCUREMENT PREFERENCE

As required by Section 70914 of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), P.L. 117-58, on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program.

Recipients of an award of Federal financial assistance are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

1. all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
2. all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
3. all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

For further information on the Buy America preference, please visit [www.doi.gov/grants/BuyAmerica](http://www.doi.gov/grants/BuyAmerica). Additional information can also be found at the White House Made in America Office website: [www.whitehouse.gov/omb/management/made-in-america/](http://www.whitehouse.gov/omb/management/made-in-america/).

### *Waivers*

When necessary, recipients may apply for, and the Department of the Interior (DOI) may grant, a waiver from these requirements, subject to review by the Made in America Office. The DOI may

waive the application of the domestic content procurement preference in any case in which it is determined that one of the below circumstances applies:

1. Non-availability Waiver: the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality;
2. Unreasonable Cost Waiver: the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent; or
3. Public Interest Waiver: applying the domestic content procurement preference would be inconsistent with the public interest.

There may be instances where an award qualifies, in whole or in part, for an existing DOI general applicability waiver as described at:

[www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers](http://www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers). If the specific financial assistance agreement, infrastructure project, or non-domestic materials meets the criteria of an existing general applicability waiver within the limitations defined within the waiver, the recipient is not required to request a separate waiver for non-domestic materials.

If a general applicability waiver does not already apply, and a recipient believes that one of the above circumstances applies to an award, a request to waive the application of the domestic content procurement preference may be submitted to the financial assistance awarding officer in writing. Waiver requests shall include the below information. The waiver shall not include any Privacy Act information, sensitive data, or proprietary information within their waiver request. Waiver requests will be posted to [www.doi.gov/grants/buyamerica](http://www.doi.gov/grants/buyamerica) and are subject to public comment periods of no less than 15 days. Waiver requests will also be reviewed by the Made in America Office.

1. Type of waiver requested (non-availability, unreasonable cost, or public interest).
2. Requesting entity and Unique Entity Identifier (UEI) submitting the request.
3. Department of Interior Bureau or Office who issued the award.
4. Federal financial assistance listing name and number (reference block 2 on DOI Notice of Award)
5. Financial assistance title of project (reference block 8 on DOI Notice of Award).
6. Federal Award Identification Number (FAIN).
7. Federal funding amount (reference block 11.m. on DO Notice of Award).
8. Total cost of Infrastructure expenditures (includes federal and non-federal funds to the extent known).
9. Infrastructure project description(s) and location(s) (to the extent known).
10. List of iron or steel item(s), manufactured goods, and construction material(s) the recipient seeks to waive from Buy America requirements. Include the name, cost, countries of origin (if known), and relevant [PSC](#) or [NAICS](#) code for each.
11. A certification that the recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor.
12. A statement of waiver justification, including a description of efforts made (e.g., market research, industry outreach) by the recipient, in an attempt to avoid the need

for a waiver. Such a justification may cite, if applicable, the absence of any Buy America-compliant bids received in response to a solicitation.

13. Anticipated impact if no waiver is issued.

Approved waivers will be posted at [www.doi.gov/grants/BuyAmerica/ApprovedWaivers](http://www.doi.gov/grants/BuyAmerica/ApprovedWaivers); recipients requesting a waiver will be notified of their waiver request determination by an awarding officer.

Questions pertaining to waivers should be directed to the financial assistance awarding officer.

### *Definitions*

“Construction materials” includes an article, material, or supply that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

“Construction Materials” does **not** include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States

## **D.3 RECLAMATION STANDARD TERMS AND CONDITIONS**

### **1. REGULATIONS**

The regulations at 2 CFR Subtitle A, Chapter II, Part 200 “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”, are hereby incorporated by reference as though set forth in full text. Failure of a Recipient to comply with any applicable regulation or circular may be the basis for withholding payments for proper charges made by the Recipient and/or for termination of support.

### **2. PROCUREMENT STANDARDS (2 CFR 200.317 through 200.327)**

#### **§200.317 Procurements by States**

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by §200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§200.318 through 200.327.

## **§200.318 General procurement standards**

- (a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§200.317 through 200.327.
- (b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- (c)
  - (1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.
  - (2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.
- (d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- (e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity



agreements where appropriate for procurement or use of common or shared goods and services.

- (f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- (g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
- (h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.214.
- (i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- (j) (1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:
  - (i) The actual cost of materials; and
  - (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.
- (2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.
- (k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

## **§200.319 Competition**

- (a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and §200.320.
- (b) In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:
  - (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
  - (2) Requiring unnecessary experience and excessive bonding;
  - (3) Noncompetitive pricing practices between firms or between affiliated companies;
  - (4) Noncompetitive contracts to consultants that are on retainer contracts;
  - (5) Organizational conflicts of interest;
  - (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
  - (7) Any arbitrary action in the procurement process.
- (c) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- (d) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
  - (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of

the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

- (2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- (e) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.
- (f) Noncompetitive procurements can only be awarded in accordance with §200.320(c).

### **§200.320 Methods of procurement to be followed**

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and §§200.317, 200.318, and 200.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

- (a) Informal procurement methods. When the value of the procurement for property or services under a Federal award does not exceed the simplified acquisition threshold (SAT), as defined in §200.1, or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:
  - (1) Micro-purchases—
    - (i) Distribution. The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of micro-purchase in §200.1). To the maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.
    - (ii) Micro-purchase awards. Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.
    - (iii) Micro-purchase thresholds. The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may

establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of this section.

- (iv) Non-Federal entity increase to the micro-purchase threshold up to \$50,000. Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The non-Federal entity may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with §200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:
    - (A) A qualification as a low-risk auditee, in accordance with the criteria in §200.520 for the most recent audit;
    - (B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
    - (C) For public institutions, a higher threshold consistent with State law.
  - (v) Non-Federal entity increase to the micro-purchase threshold over \$50,000. Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.
- (2) Small purchases—
- (i) Small purchase procedures. The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.
  - (ii) Simplified acquisition thresholds. The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.
- (b) Formal procurement methods. When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with §200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the

simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate:

- (1) Sealed bids. A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.
  - (i) In order for sealed bidding to be feasible, the following conditions should be present:
    - (A) A complete, adequate, and realistic specification or purchase description is available;
    - (B) Two or more responsible bidders are willing and able to compete effectively for the business; and
    - (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
  - (ii) If sealed bids are used, the following requirements apply:
    - (A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
    - (B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
    - (C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
    - (D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
    - (E) Any or all bids may be rejected if there is a sound documented reason.

- (2) Proposals. A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:
  - (i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;
  - (ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;
  - (iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and
  - (iv) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms that are a potential source to perform the proposed effort.
- (c) Noncompetitive procurement. There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:
  - (1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);
  - (2) The item is available only from a single source;
  - (3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
  - (4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or
  - (5) After solicitation of a number of sources, competition is determined inadequate.

**§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms**

- (a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- (b) Affirmative steps must include:
  - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  - (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  - (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

**§200.322 Domestic preferences for procurements**

- (a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- (b) For purposes of this section:
  - (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
  - (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-

based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

### **§200.323 Procurement of recovered materials**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

### **§200.324 Contract cost and price**

- (a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract amendments. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.
- (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- (c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under subpart E of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.
- (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

### **§200.325 Federal awarding agency or pass-through entity review**

- (a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a



solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

- (b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
  - (1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
  - (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
  - (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
  - (4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
  - (5) A proposed contract amendment changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
  
- (c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.
  - (1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;
  - (2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

### **§200.326 Bonding requirements**

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately

protected. If such a determination has not been made, the minimum requirements must be as follows:

- (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- (b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
- (c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

#### **§200.327 Contract provisions**

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to this part.

#### **4. EQUIPMENT (2 CFR 200.313)**

See also §200.439.

- (a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity. Unless a statute specifically authorizes the Federal agency to vest title in the non-Federal entity without further obligation to the Federal Government, and the Federal agency elects to do so, the title must be a conditional title. Title must vest in the non-Federal entity subject to the following conditions:
  - (1) Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
  - (2) Not encumber the property without approval of the Federal awarding agency or pass-through entity.
  - (3) Use and dispose of the property in accordance with paragraphs (b), (c) and (e) of this section.
- (b) General. A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures. Other non-Federal entities must follow paragraphs (c) through (e) of this section.

(c) Use.

- (1) Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:
  - (i) Activities under a Federal award from the Federal awarding agency which funded the original program or project, then
  - (ii) Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.
- (2) During the time that equipment is used on the project or program for which it was acquired, the non-Federal entity must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by Federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally funded programs or projects is also permissible. User fees should be considered if appropriate.
- (3) Notwithstanding the encouragement in §200.307 Program income to earn program income, the non-Federal entity must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment.
- (4) When acquiring replacement equipment, the non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

(d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements:

- (1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
- (2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

- (3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
  - (4) Adequate maintenance procedures must be developed to keep the property in good condition.
  - (5) If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- (e) Disposition. When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:
- (1) Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.
  - (2) Except as provided in §200.312(b), or if the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair-market value in excess of \$5,000 may be retained by the non-Federal entity or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
  - (3) The non-Federal entity may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the non-Federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.
  - (4) In cases where a non-Federal entity fails to take appropriate disposition actions, the Federal awarding agency may direct the non-Federal entity to take disposition actions.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75884, Dec. 19, 2014]

## **5. SUPPLIES (2 CFR 200.314)**

See also §200.453.

- (a) Title to supplies will vest in the non-Federal entity upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other

Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment. See §200.313(e)(2) for the calculation methodology.

- (b) As long as the Federal Government retains an interest in the supplies, the non-Federal entity must not use supplies acquired under a Federal award to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.

## **6. INSPECTION**

Reclamation has the right to inspect and evaluate the work performed or being performed under this Agreement, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If Reclamation performs inspection or evaluation on the premises of the Recipient or a sub-Recipient, the Recipient shall furnish and shall require sub-recipients to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties

## **7. AUDIT REQUIREMENTS (2 CFR 200.501)**

- (a) Audit required. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.
- (b) Single audit. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.
- (c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §200.507. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.
- (d) Exemption when Federal awards expended are less than \$750,000. A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in §200.503, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).

- (e) Federally Funded Research and Development Centers (FFRDC). Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.
- (f) Subrecipients and Contractors. An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not Federal awards. Section §200.330 sets forth the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.
- (g) Compliance responsibility for contractors. In most cases, the auditee's compliance responsibility for contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with Federal statutes, regulations, and the terms and conditions of Federal awards. Federal award compliance requirements normally do not pass through to contractors. However, the auditee is responsible for ensuring compliance for procurement transactions which are structured such that the contractor is responsible for program compliance or the contractor's records must be reviewed to determine program compliance. Also, when these procurement transactions relate to a major program, the scope of the audit must include determining whether these transactions are in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards.
- (h) For-profit subrecipient. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The agreement with the for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits. See also §200.332.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75887, Dec. 19, 2014; 85 FR 49571, Aug 13, 2020]

## **8. REMEDIES FOR NONCOMPLIANCE (2 CFR 200.339)**

### **§200.339 Remedies for noncompliance**

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in §200.208. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the

Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances.

- (a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the Federal award.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- (e) Withhold further Federal awards for the project or program.
- (f) Take other remedies that may be legally available.

## **9. TERMINATION (2 CFR 200.340)**

### **§200.340 Termination.**

- (a) The Federal award may be terminated in whole or in part as follows:
  - (1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
  - (2) By the Federal awarding agency or pass-through entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
  - (3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
  - (4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety; or
  - (5) By the Federal awarding agency or pass-through entity pursuant to termination provisions included in the Federal award.
- (b) A Federal awarding agency should clearly and unambiguously specify termination provisions applicable to each Federal award, in applicable regulations or in the award, consistent with this section.

- (c) When a Federal awarding agency terminates a Federal award prior to the end of the period of performance due to the non-Federal entity's material failure to comply with the Federal award terms and conditions, the Federal awarding agency must report the termination to the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS).
  - (1) The information required under paragraph (c) of this section is not to be reported to designated integrity and performance system until the non-Federal entity either—
    - (i) Has exhausted its opportunities to object or challenge the decision, see §200.342; or
    - (ii) Has not, within 30 calendar days after being notified of the termination, informed the Federal awarding agency that it intends to appeal the Federal awarding agency's decision to terminate.
  - (2) If a Federal awarding agency, after entering information into the designated integrity and performance system about a termination, subsequently:
    - (i) Learns that any of that information is erroneous, the Federal awarding agency must correct the information in the system within three business days;
    - (ii) Obtains an update to that information that could be helpful to other Federal awarding agencies, the Federal awarding agency is strongly encouraged to amend the information in the system to incorporate the update in a timely way.
  - (3) Federal awarding agencies, must not post any information that will be made publicly available in the non-public segment of designated integrity and performance system that is covered by a disclosure exemption under the Freedom of Information Act. If the non-Federal entity asserts within seven calendar days to the Federal awarding agency who posted the information, that some of the information made publicly available is covered by a disclosure exemption under the Freedom of Information Act, the Federal awarding agency who posted the information must remove the posting within seven calendar days of receiving the assertion. Prior to reposting the releasable information, the Federal agency must resolve the issue in accordance with the agency's Freedom of Information Act procedures.
- (d) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§200.344 and 200.345.

## **10. DEBARMENT AND SUSPENSION (2 CFR 1400)**

The Department of the Interior regulations at 2 CFR 1400—Governmentwide Debarment and Suspension (Nonprocurement), which adopt the common rule for the governmentwide system of debarment and suspension for nonprocurement activities, are hereby incorporated by reference and made a part of this Agreement. By entering into this grant or cooperative Agreement with



the Bureau of Reclamation, the Recipient agrees to comply with 2 CFR 1400, Subpart C, and agrees to include a similar term or condition in all lower-tier covered transactions. These regulations are available at <http://www.ecfr.gov/>.

## **11. DRUG-FREE WORKPLACE (2 CFR 182 and 1401)**

The Department of the Interior regulations at 2 CFR 1401—Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), which adopt the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq, as amended) applicable to grants and cooperative agreements, are hereby incorporated by reference and made a part of this agreement. By entering into this grant or cooperative agreement with the Bureau of Reclamation, the Recipient agrees to comply with 2 CFR 182.

## **12. ASSURANCES AND CERTIFICATIONS INCORPORATED BY REFERENCE**

The provisions of the Assurances, SF-424B or SF-424D as applicable, executed by the Recipient in connection with this Agreement shall apply with full force and effect to this Agreement. All anti-discrimination and equal opportunity statutes, regulations, and Executive Orders that apply to the expenditure of funds under Federal contracts, grants, and cooperative Agreements, loans, and other forms of Federal assistance. The Recipient shall comply with Title VI or the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and any program-specific statutes with anti-discrimination requirements. The Recipient shall comply with civil rights laws including, but not limited to, the Fair Housing Act, the Fair Credit Reporting Act, the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, the Equal Educational Opportunities Act, the Age Discrimination in Employment Act, and the Uniform Relocation Act.

Such Assurances also include, but are not limited to, the promise to comply with all applicable Federal statutes and orders relating to nondiscrimination in employment, assistance, and housing; the Hatch Act; Federal wage and hour laws and regulations and work place safety standards; Federal environmental laws and regulations and the Endangered Species Act; and Federal protection of rivers and waterways and historic and archeological preservation.

## **13. COVENANT AGAINST CONTINGENT FEES**

The Recipient warrants that no person or agency has been employed or retained to solicit or secure this Agreement upon an Agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide offices established and maintained by the Recipient for the purpose of securing Agreements or business. For breach or violation of this warranty, the Government shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement amount, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

#### 14. TRAFFICKING VICTIMS PROTECTION ACT OF 2000 (2 CFR 175.15)

Trafficking in persons.

- (a) *Provisions applicable to a recipient that is a private entity.*
  - (1) You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not
    - (i) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
    - (ii) Procure a commercial sex act during the period of time that the award is in effect; or
    - (iii) Use forced labor in the performance of the award or subawards under the award.
  - (2) We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
    - (i) Is determined to have violated a prohibition in paragraph a.1 of this award term; or
    - (ii) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either:
      - (A) Associated with performance under this award; or
      - (B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR part 1400.
- (b) *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—
  - (1) Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

- (2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either:
  - (i) Associated with performance under this award; or
  - (ii) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR part 1400.
- (c) *Provisions applicable to any recipient.*
  - (1) You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
  - (2) Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
    - (i) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
    - (ii) Is in addition to all other remedies for noncompliance that are available to us under this award.
  - (3) You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
- (d) *Definitions.* For purposes of this award term:
  - (1) “Employee” means either:
    - (i) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
    - (ii) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
  - (2) “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(3) “Private entity”:

(i) Means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

(ii) Includes:

(A) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

(B) A for-profit organization.

(4) “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

**15. NEW RESTRICTIONS ON LOBBYING (43 CFR 18)**

The Recipient agrees to comply with 43 CFR 18, New Restrictions on Lobbying, including the following certification:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying” in accordance with its instructions.
- (c) The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**16. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (URA) (42 USC 4601 *et seq.*)**

- (a) The Uniform Relocation Assistance Act (URA), 42 U.S.C. 4601 *et seq.*, as amended, requires certain assurances for Reclamation funded land acquisition projects conducted by a Recipient that cause the displacement of persons, businesses, or farm operations. Because Reclamation funds only support acquisition of property or interests in property from willing sellers, it is not anticipated that Reclamation funds will result in any “displaced persons,” as defined under the URA.
- (b) However, if Reclamation funds are used for the acquisition of real property that results in displacement, the URA requires Recipients to ensure that reasonable relocation payments and other remedies will be provided to any displaced person. Further, when acquiring real property, Recipients must be guided, to the greatest extent practicable, by the land acquisition policies in 42 U.S.C. 4651.
- (c) Exemptions to the URA and 49 CFR Part 24
  - (1) The URA provides for an exemption to the appraisal, review and certification rules for those land acquisitions classified as “voluntary transactions.” Such “voluntary transactions” are classified as those that do not involve an exercise of eminent domain authority on behalf of a Recipient, and must meet the conditions specified at 49 CFR 24.101(b)(1)(i)-(iv).
  - (2) For any land acquisition undertaken by a Recipient that receives Reclamation funds, but does not have authority to acquire the real property by eminent domain, to be exempt from the requirements of 49 CFR Part 24 the Recipient must:
    - (i) provide written notification to the owner that it will not acquire the property in the event negotiations fail to result in an amicable agreement, and;
    - (ii) inform the owner in writing of what it believes to be the market value of the property.
- (d) Review of Land Acquisition Appraisals. Reclamation reserves the right to review any land appraisal whether or not such review is required under the URA or 49 CFR 24.104. Such reviews may be conducted by the Department of the Interior’s Appraisal Services Directorate or a Reclamation authorized designee. When Reclamation determines that a review of the original appraisal is necessary, Reclamation will notify the Recipient and provide an estimated completion date of the initial appraisal review.

## 17. SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER REQUIREMENTS (2 CFR 25, APPENDIX A)

### A. Requirement for System for Award Management

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

### B. Requirement for unique entity identifier

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its unique entity identifier to you.
2. May not make a subaward to an entity unless the entity has provided its unique entity identifier to you.

### C. Definitions

For purposes of this award term:

1. System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <http://www.sam.gov>).
2. Unique entity identifier means the identifier required for SAM registration to uniquely identify business entities.
3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
  - a. A Governmental organization, which is a State, local government, or Indian Tribe;
  - b. A foreign public entity;
  - c. A domestic or foreign nonprofit organization;
  - d. A domestic or foreign for-profit organization; and

- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
4. Subaward:
- a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
  - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.330).
  - c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
5. Subrecipient means an entity that:
- a. Receives a subaward from you under this award; and
  - b. Is accountable to you for the use of the Federal funds provided by the subaward.

**18. PROHIBITION ON TEXT MESSAGING AND USING ELECTRONIC EQUIPMENT SUPPLIED BY THE GOVERNMENT WHILE DRIVING**

Executive Order 13513, *Federal Leadership On Reducing Text Messaging While Driving*, was signed by President Barack Obama on October 1, 2009 (ref: <http://edocket.access.gpo.gov/2009/pdf/E9-24203.pdf>). This Executive Order introduces a Federal Government-wide prohibition on the use of text messaging while driving on official business or while using Government-supplied equipment. Additional guidance enforcing the ban will be issued at a later date. In the meantime, please adopt and enforce policies that immediately ban text messaging while driving company-owned or rented vehicles, government-owned or leased vehicles, or while driving privately owned vehicles when on official government business or when performing any work for or on behalf of the government.

**19. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (2 CFR 170 APPENDIX A)**

- I. Reporting Subawards and Executive Compensation.
  - a. Reporting of first-tier subawards.
    - 1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2. Where and when to report.
  - i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.
  - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.
  - b. Reporting Total Compensation of Recipient Executives.
    1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
      - i. the total Federal funding authorized to date under this award is \$25,000 or more;
      - ii. in the preceding fiscal year, you received—
        - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
        - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
      - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
    2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:
      - i. As part of your registration profile at <http://www.ccr.gov>.



- ii. By the end of the month following the month in which this award is made, and annually thereafter.
- c. Reporting of Total Compensation of Subrecipient Executives.
  - 1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
    - i. in the subrecipient's preceding fiscal year, the subrecipient received—
      - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
      - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
    - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
  - 2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
    - i. To the recipient.
    - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards, and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 CFR part 25:

- i. A Governmental organization, which is a State, local government, or Indian tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization;
- v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. Executive means officers, managing partners, or any other employees in management positions.

3. Subaward:

- i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. \_\_.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
- iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. *Subrecipient* means an entity that:
  - i. Receives a subaward from you (the recipient) under this award; and
  - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
  
5. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
  - i. *Salary and bonus.*
  - ii. *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
  - iii. *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
  - iv. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
  - v. *Above-market earnings on deferred compensation which is not tax-qualified.*
  - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

**20. RECIPIENT EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013)**

- (a) This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239).
- (b) The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C 4712.

- (c) The Award Recipient shall insert the substance of this clause, including this paragraph (c), in all subawards or subcontracts over the simplified acquisition threshold. 48 CFR 52.203-17 (as referenced in 48 CFR 3.908-9).

## **21. REPORTING OF MATTERS RELATED TO RECIPIENT INTEGRITY AND PERFORMANCE (APPENDIX XII TO 2 CFR PART 200)**

### **1. General Reporting Requirement**

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

### **2. Proceedings About Which You Must Report**

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five-year period; and
- c. Is one of the following:
  - (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
  - (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
  - (3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
  - (4) Any other criminal, civil, or administrative proceeding if:
    - (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
    - (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

- (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

### 3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

### 4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

### 5. Definitions

For purposes of this award term and condition:

- a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—
  - (1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
  - (2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

[80 FR 43310, July 22, 2015, as amended at 85 FR 49582, Aug. 13, 2020]

## 22. CONFLICTS OF INTEREST

### (a) Applicability.

- (1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.
- (2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 2 CFR 200.318 apply.

### (b) Requirements.

- (1) Non-Federal entities must avoid prohibited conflicts of interest, including any significant financial interests that could cause a reasonable person to question the recipient's ability to provide impartial, technically sound, and objective performance under or with respect to a Federal financial assistance agreement.
- (2) In addition to any other prohibitions that may apply with respect to conflicts of interest, no key official of an actual or proposed recipient or subrecipient, who is substantially involved in the proposal or project, may have been a former Federal employee who, within the last one (1) year, participated personally and substantially in the evaluation, award, or administration of an award with respect to that recipient or subrecipient or in development of the requirement leading to the funding announcement.
- (3) No actual or prospective recipient or subrecipient may solicit, obtain, or use non-public information regarding the evaluation, award, or administration of an award to that recipient or subrecipient or the development of a Federal financial assistance opportunity that may be of competitive interest to that recipient or subrecipient.

### (c) Notification.

- (1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112, Conflict of Interest.
- (2) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Financial Assistance Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

(d) Restrictions on Lobbying. Non-Federal entities are strictly prohibited from using funds under this grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR Part 18 and 31 USC 1352.

(e) Review Procedures. The Financial Assistance Officer will examine each conflict of interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement, and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

(f) Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the Government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR 200.339, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR Part 180).

## **23. DATA AVAILABILITY**

(a) Applicability. The Department of the Interior is committed to basing its decisions on the best available science and providing the American people with enough information to thoughtfully and substantively evaluate the data, methodology, and analysis used by the Department to inform its decisions.

(b) Use of Data. The regulations at 2 CFR 200.315 apply to data produced under a Federal award, including the provision that the Federal Government has the right to obtain, reproduce, publish, or otherwise use the data produced under a Federal award as well as authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(c) Availability of Data. The recipient shall make the data produced under this award and any subaward(s) available to the Government for public release, consistent with applicable law, to allow meaningful third-party evaluation and reproduction of the following:

- (i) The scientific data relied upon;
- (ii) The analysis relied upon; and
- (iii) The methodology, including models, used to gather and analyze data.

## **24. PROHIBITION ON PROVIDING FUNDS TO THE ENEMY**

- (a) The recipient must—
- (1) Exercise due diligence to ensure that none of the funds, including supplies and services, received under this grant or cooperative agreement are provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, which must be completed through [2 CFR 180.300](#) prior to issuing a subaward or contract and;
  - (2) Terminate or void in whole or in part any subaward or contract with a person or entity listed in SAM as a prohibited or restricted source pursuant to subtitle E of

Title VIII of the NDAA for FY 2015, unless the Federal awarding agency provides written approval to continue the subaward or contract.

- (b) The recipient may include the substance of this clause, including paragraph (a) of this clause, in subawards under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.
- (c) The Federal awarding agency has the authority to terminate or void this grant or cooperative agreement, in whole or in part, if the Federal awarding agency becomes aware that the recipient failed to exercise due diligence as required by paragraph (a) of this clause or if the Federal awarding agency becomes aware that any funds received under this grant or cooperative agreement have been provided directly or indirectly to a person or entity who is actively opposing coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

## **25. ADDITIONAL ACCESS TO RECIPIENT RECORDS**

- (a) In addition to any other existing examination-of-records authority, the Federal Government is authorized to examine any records of the recipient and its subawards or contracts to the extent necessary to ensure that funds, including supplies and services, available under this grant or cooperative agreement are not provided, directly or indirectly, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, except for awards awarded by the Department of Defense on or before Dec 19, 2017 that will be performed in the United States Central Command (USCENTCOM) theater of operations.
- (b) The substance of this clause, including this paragraph (b), is required to be included in subawards or contracts under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.

## **26. PROHIBITION ON CERTAIN TELECOMMUNICATION AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

Federal award recipients are prohibited from using government funds to enter contracts (or extend or renew contracts) with entities that use covered telecommunications equipment or services as described in section 889 of the 2019 National Defense Authorization Act. This prohibition applies even if the contract is not intended to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services.



## **D.4 DEPARTMENT OF THE INTERIOR STANDARD AWARD TERMS AND CONDITIONS**

The Department of the Interior (DOI) Standard Award Terms and Conditions found at <https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf> are hereby incorporated by reference as though set forth in full text. These terms and conditions are in addition to the assurances and certifications made as part of the award and terms, conditions or restrictions reflected on this Agreement. Recipient acceptance of this Agreement carries with it the responsibility to be aware of and comply with all DOI terms and conditions applicable to this Agreement. The Recipient is responsible for ensuring their subrecipients and contractors are aware of and comply with applicable statutes, regulations, and agency requirements.

Recipient and subrecipient failure to comply with the general terms and conditions outlined below and those directly reflected in this Agreement can result in the DOI taking one or more of remedies described in 2 Code of Federal Regulations parts 200.339 and 200.340. The DOI will notify the Recipient whenever terms and conditions are updated to accommodate instances in the passage of a regulation or statute that requires compliance. Also, DOI will inform the Recipient of revised terms and conditions in the action of an Agreement amendment adding additional Federal funds. Reclamation will make such changes by issuing a Notice of Award amendment that describes the change and provides the effective date. Revised terms and conditions do not apply to the Recipient's expenditures of funds or activities the Recipient carries out before the effective date of the revised DOI terms and conditions.



# **Exhibit E**

## **Performance Report Templates**

# Sonoma Marin Drought Resiliency Program

## Reporting Periods

Reporting Period Start Date	Reporting Period End Date	Reporting Type	Partner Doc Submission Due Date
4/1/2022	2/15/2024	Pre-Award	<b>4/10/2024</b>
2/16/2024	3/31/2024	Quarterly	<b>4/10/2024</b>
4/1/2024	6/30/2024	Quarterly	<b>7/10/2024</b>
7/1/2024	9/30/2024	Quarterly	<b>10/10/2024</b>
10/1/2024	12/31/2024	Quarterly	<b>1/10/2025</b>
1/1/2025	3/31/2025	Quarterly	<b>4/10/2025</b>
4/1/2025	6/30/2025	Quarterly	<b>7/10/2025</b>
7/1/2025	9/30/2025	Quarterly	<b>10/10/2025</b>
10/1/2025	12/31/2025	Quarterly	<b>1/10/2026</b>
1/1/2026	3/31/2026	Quarterly	<b>4/10/2026</b>
4/1/2026	6/30/2026	Quarterly	<b>7/10/2026</b>
7/1/2026	9/30/2026	Quarterly	<b>10/10/2026</b>
4/1/2022	9/30/2026	Final Report	<b>11/14/2026</b>

# Sonoma-Marín Drought Resiliency Program Quarterly Reporting Template

1. **Subrecipient Organization:**

2. **Reporting Period Beginning and End Date:**

3. **Narrative of Activities Performed during Reporting Period:**

**A) Develop Marketing Materials (SCWA will complete this section)**

**1. Accomplishments this period:**

- i. Please include quantified accomplishments and a computation of costs for award and pre-award activities (for example, related to units of accomplishment) if that information will be useful.

*(Example: Updated marketing materials to include increased rebate amount.)*

- ii. The reasons why established goals were not met, if appropriate.
- iii. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

**2. Significant Developments (if any):**

- i. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the agreement. Please include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
- ii. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

**B) Update Public Outreach Materials Including Rebate Forms and Requirements (SCWA will complete this section)**

**1. Accomplishments this period:**

- i. Please include quantified accomplishments and a computation of costs for award and pre-award activities (for example, related to units of accomplishment) if that information will be useful.

*(Example: Updated website and rebate form with increased dollar amount.)*

- ii. The reasons why established goals were not met, if appropriate.

## Sonoma-Marín Drought Resiliency Program Quarterly Reporting Template

- iii. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

### **2. Significant Developments (if any):**

- i. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the agreement. Please include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
  
- ii. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

### **C) Turf Removal**

#### **1. Accomplishments this period:**

- i. Please include quantified accomplishments and a computation of costs for award and pre-award activities (for example, related to units of accomplishment) if that information will be useful.

*(Look at Reporting Spreadsheet, Partner Summary Tab and type the total amount of rebates issued during period and total dollar amount. i.e. Issued 50 turf rebates for 50,000 sqft. of turf removed, at a \$1.00 per sqft. totaling \$50,000.)*

- ii. The reasons why established goals were not met, if appropriate.
  
- iii. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

#### **2. Significant Developments (if any):**

- i. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the agreement. Please include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
  
- ii. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

## Sonoma-Marín Drought Resiliency Program Quarterly Reporting Template

### D) High Efficiency Washer

#### 1. Accomplishments this Period:

- i. Please include quantified accomplishments and a computation of costs for award and pre-award activities (for example, related to units of accomplishment) if that information will be useful.

*(Look at Reporting Spreadsheet, Partner Summary Tab and type the total amount of rebates issued during period and total dollar amount. i.e: Issued 30 high efficiency clothes washer rebates at \$75.00 per rebate for a total of \$2,250.)*

- ii. The reasons why established goals were not met, if appropriate.
- iii. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

#### 2. Significant Developments (if any):

- i. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the agreement. Please include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
- ii. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

### E) High Efficiency Toilet (HET)

#### 1. Accomplishments this period:

- i. Please include quantified accomplishments and a computation of costs for award and pre-award activities (for example, related to units of accomplishment) if that information will be useful.

*(Look at Reporting Spreadsheet, Partner Summary Tab and type the total amount of rebates issued during period and total dollar amount. i.e: Issued 10 high efficiency toilet rebates at \$100 per unit, for a total of \$1000.)*

- ii. The reasons why established goals were not met, if appropriate.
- iii. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

#### 2. Significant Developments (if any):

## Sonoma-Marín Drought Resiliency Program Quarterly Reporting Template

- i. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the agreement. Please include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
  
- ii. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

### **F) Smart Irrigation Controller**

#### **1. Accomplishments this period:**

- i. Please include quantified accomplishments and a computation of costs for award and pre-award activities (for example, related to units of accomplishment) if that information will be useful.

*(Look at Reporting Spreadsheet, Partner Summary Tab and type the total amount of rebates issued during period and total dollar amount. i.e: Issued 10 rebates at \$100 per unit, for a total of \$1,000.)*

- ii. The reasons why established goals were not met, if appropriate.
  
- iii. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

#### **2. Significant Developments (if any):**

- i. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the agreement. Please include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
  
- ii. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

### **G) Flume Smart Meter**

#### **1. Accomplishments this period:**

- i. Please include quantified accomplishments and a computation of costs for award and pre-award activities (for example, related to units of accomplishment) if that information will be useful.



## Sonoma-Marín Drought Resiliency Program Quarterly Reporting Template

*(Look at Reporting Spreadsheet, Partner Summary Tab and type the total amount of rebates issued during period and total dollar amount. i.e: Issued 10 rebates for \$100 per unit, for a total of \$1,000.)*

- ii. The reasons why established goals were not met, if appropriate.
- iii. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

### **2. Significant Developments (if any):**

- i. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the agreement. Please include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
- ii. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

### **H) Direct Install HET, aerators, and showerheads**

#### **1. Accomplishments this period:**

- i. Please include quantified accomplishments and a computation of costs for award and pre-award activities (for example, related to units of accomplishment) if that information will be useful.

*(Look at Reporting Spreadsheet, Partner Summary Tab and type the total amount of rebates issued during period and total dollar amount. i.e: Provided 10 households with direct install of high efficiency fixtures, including # of HET, # of aerators, and/or # of showerheads for a total of X dollars.)*

- ii. The reasons why established goals were not met, if appropriate.
- iii. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

### **2. Significant Developments (if any):**

- i. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the agreement. Please include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

## **Sonoma-Marín Drought Resiliency Program Quarterly Reporting Template**

- ii. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

# Quarterly Financial Reporting Summary

## Partner Agency

Date Submitted: \_\_\_\_\_

Reporting Period: \_\_\_\_\_

### Rebate Summary

Program Name	Rebate amount	Rebates this period	Total Eligible	Estimated grant eligible amount	Estimated match eligible amount
Turf Removal	\$ -	-	\$ -	\$ -	\$ -
High Efficiency Clothes Washer Replacement	\$ -	-	\$ -	\$ -	\$ -
High Efficiency Toilet Replacement	\$ -	-	\$ -	\$ -	\$ -
Smart Irrigation Controllers	\$ -	-	\$ -	\$ -	\$ -
Flume Smart Meter	\$ -	-	\$ -	\$ -	\$ -
Direct Install Program	\$ -	-	\$ -	\$ -	\$ -

**Total Rebates this period:** -

**Total Estimated grant eligible amount :** \$ -

**Total Estimated match eligible amount :** \$ -

**TOTAL :** \$ -

Reports are due within 10 days of quarter end

Please submit all reports and backup documentation to [Lauren.Lum@scwa.ca.gov](mailto:Lauren.Lum@scwa.ca.gov)

## SF-425 Reporting Summary

### Partner Agency

Date Submitted: \_\_\_\_\_

Reporting Period: \_\_\_\_\_

#### Summary

#### Federal Cash (To report multiple grants, also use FFR attachment):

a. Cash Receipts	<i>Enter the cumulative total reimbursement received from SCWA as of the reporting period end date</i>	
b. Cash Disbursements	<i>Enter the cumulative amount of grant eligible expenses incurred as of the reporting period end date.</i>	
c. Cash on Hand (line a minus b)	<i>Total payment request this period:</i>	\$ -

#### Federal Expenditures and Unobligated Balance:

d. Total Federal funds authorized	<i>Total partner grant eligible budget:</i>	\$ -
e. Federal share of expenditures	<i>Total partner grant eligible expenses as of reporting period end date:</i>	
f. Federal share of unliquidated obligations	<i>Value of unpaid service contracts:</i>	n/a
g. Total Federal share (sum of lines e and f)		\$ -
h. Unobligated balance of Federal Funds (line d minus g)	<i>Federal funds remaining:</i>	\$ -

#### Recipient Share:

i. Total recipient share required	<i>Total partner match eligible budget:</i>	\$ -
j. Recipient share of expenditures	<i>Total partner match eligible expenses as of reporting period end date:</i>	
k. Remaining recipient share to be provided (line i minus j)	<i>Match funds remaining:</i>	\$ -

**TOTAL REQUESTED THIS PERIOD: \$ -**













