

# Central Valley Salinity Coalition with CV-SALTS Initiative

## Request for Qualifications (RFQ) 2014-001 For Consulting Services to Provide

### Technical Services Supporting CV-SALTS

## 1 - INTRODUCTION

### Organization Background

The Central Valley Salinity Coalition (CVSC) was formed in 2008 to integrate and augment the efforts of the Central Valley Salinity Alternatives for Long Term Sustainability (CV-SALTS) Initiative. The purpose of the organization is the governance and organization of the efforts needed to plan, develop and implement the Salinity and Nitrate Management Plan (SNMP) for the Central Valley. The SNMP will identify implementation mechanisms to ensure protection of beneficial uses and provide the basis for a Basin Plan Amendment (BPA) to support application in the Central Valley.

### Project Background

CV-SALTS is a stakeholder driven effort intended to provide long term economic and environmental sustainability throughout the Central Valley while simultaneously satisfying the requirements of the State Water Resources Control Board (State Water Board) Recycled Water Policy (2009-0011). In February 2012, the CV-SALTS Executive Committee approved a 5 year Workplan and Strategy Framework for the CV-SALTS program which can be viewed at: <http://cvsalinity.org/index.php/docs/documents-and-presentations/salt-and-nutrient-management-planning/1092-cv-salts-approved-workplan-final/file.html>. This document forms the basis of work to be completed through October 2016 with critical deliverables including a draft SNMP and Basin Plan Amendment due in May 2016.

The objective of this RFQ/RFP is to update the CV-SALTS list of qualified contractors that have experience in developing and implementing technical and policy-related projects leading to successful Basin Plan amendments and solicit proposals for near term activities. Accordingly, this RFQ/RFP is an informal solicitation and is not a commitment or offer to enter into any specific agreement to conduct work. The result of the RFQ portion of the solicitation will be a qualified contractor list. Selection of contractors for specific projects where proposals are requested may be done under this solicitation or may be conducted separately using the approved qualified contractor list.

## 2 - SJVDA Contract, CVSC and CV-SALTS Coordination

The funding for CV-SALTS-related projects may come from one or more sources including the State Water Board under contract with the San Joaquin Valley Drainage Authority (SJVDA), from the CVSC or potentially other sources. Contracts are executed between the SJVDA and the Contractor for the Scope of Work (SOW) for tasks approved by the CV-SALTS Executive Committee.

The CV-SALTS Workplan and budget allocates funds for specific project tasks. Typically, funding for approved projects is included under the contract with the SJVDA but the contract may be augmented with additional funding if needed and available. Other funding for projects may be available to the Executive Committee and they may direct the award of additional funds through other contracting mechanisms as they determine. Project funding may be developed from multiple sources but will be primarily from a State Water Board Cleanup and Abatement (CAA) Contract with the SJVDA. Primary day-to-day project coordination with a selected CV-SALTS Contractor will be the responsibility of the CV-SALTS Technical Project Manager (TPM), but will include some coordination with CV-SALTS Program Manager.

### **3 - Request for Qualifications – General Information**

This is a request for a Statement of Qualifications (SOQ) from providers of professional services to accomplish the remaining work required for CV-SALTS including technical and policy-related services described in the SOW shown in Attachment A. The Contractor shall provide a response to **BOLD** potential tasks described in Attachment A. Where the Contractor is comprised of more than one firm, the response to this RFQ shall clearly identify which firms and key personnel have the qualifications to complete the potential tasks.

### **4 - Request for Cost Proposal and Schedule**

This solicitation also seeks proposals from professional services providers for cost, scope and schedule proposal for the Surveillance and Monitoring project which may be awarded in the near future. Firms are encouraged to submit qualifications without proposing the specific project if they wish. Project proposals submitted without qualifications will not be considered responsive. The brief scope of work for the Surveillance and Monitoring project is shown in Attachment A-1.

### **5 - Scope of Work**

The types of work or tasks that may be authorized under this RFQ are provided in Attachment A. Decisions regarding which tasks CV-SALTS may seek contractor support is at the discretion of CV-SALTS Executive Committee or Central Valley Salinity Coalition depending on funding source. Requests for support will be directed to the list of qualified contractors in the form of additional specific requests for proposal.

### **6 - Specific Instructions**

Responses to this RFQ must be made according to the requirements set forth in this document and the potential tasks described in Attachment A. Failure to adhere to these requirements or to include conditions, limitations, or misrepresentations may be cause for rejection of the submission. Any correction and resubmission by the proposer will not extend the time for evaluation of the submission. The SOQ will be reviewed by a group composed of members of CV-SALTS Technical Advisory Committee (TAC) and Executive Committees.

The respondent shall submit one electronic file and six (6) complete copies of the submission and related information to:

San Joaquin Valley Drainage Authority  
c/o Joseph C. McGahan  
Summers Engineering  
887 N. Irwin St.  
P. O. Box 1122  
Hanford, CA 93232  
[jmcgahan@summerseng.com](mailto:jmcgahan@summerseng.com)

All submissions must be received by December 19, 2014.

*Minimum Proposal Format Requirements:* The response to this RFQ shall not exceed 50, 8½ x 11 pages using a readable font (preferably Calibri 11 point). If an 11 x 17 size page is used, each 11 x 17 page counts as two pages in the total page count. This upper page limit shall include all the required information as described below (items 1 through 10).

### ***Required Information***

All submissions must include the following information (please also refer to the Evaluation Criteria provided in Section 6):

1. *Cover letter*, including contact name, telephone number, and address of the firm.
2. *Proposal Authorization Form* (see Section 9 below).
3. *Table of Contents*.
4. *Project Understanding* – Demonstrated understanding regarding CV-SALTS and its efforts to develop an SNMP for the Central Valley of California.
5. *Firm Descriptions* - For each firm included in the Contractor's SOQ, the following information shall be provided:
  - a. Description of the business (including type of firm) and background information including location, technical qualifications, and licenses.
  - b. Specific roles and responsibilities of each firm.
6. *Project Team Organization*, including the following:
  - a. Organizational chart showing proposed management structure and key personnel associated with each firm, including as appropriate the overall project manager, key senior advisors and potential task leaders.
  - b. Information about key personnel (including firm and job title/classification) and their specific qualifications for executing the potential work summarized in Attachment A.
  - c. Discussion regarding how the project team as described by the organizational chart would expect to interact with CV-SALTS committees (e.g., TAC), TPM, Program Manager and stakeholders during execution of an authorized project.
7. *Experience and Qualifications* - Detailed description of the Contractor's experience completing projects similar to those summarized in Attachment A. This section should include specific, recent examples (within past five years) of similar projects completed by the Contractor (including a project description, project timeline, total cost and current reference).
8. *Project Management Approach* – Detailed description regarding how the Contractor will execute projects authorized by CV-SALTS. If the Contractor consists of multiple firms, the approach shall

describe how the overall proposed project manager will select team members to support authorized tasks, internally manage work among team members, and manage interactions between the project team and CV-SALTS.

9. *Fee Schedule* – Detailed rate proposal that includes a schedule of hourly rates by employee billing classification, expense reimbursement schedule that includes cost of non-labor and subcontractor services (including any markup costs or any other standard charges or fees). Note that any charges or fees not included in the response to this RFQ will not be allowable costs under any CV-SALTS contracts, if awarded. Contractor will provide rates which will be held constant for at least one year from Contract Award. Rates may be adjusted for normal cost of living, but may not increase more than 5% during the duration of the contract and will not exceed any authorized budgets.
10. *Exceptions to Standard Agreement for Services* (Attachment B) to be considered in award qualifications.

## **7 - Evaluation Criteria**

The selection process will include an evaluation of criteria related to technical qualifications, project management qualifications and proposed fee schedule. Selection of qualified Contractor's may include an interview with top ranked firms.

### ***Evaluation Criteria for Technical Qualifications***

1. Overall responsiveness to RFQ, proposal organization, and clarity of presentation of qualifications.
2. Demonstrated project understanding – in particular understanding of the work completed, ongoing or anticipated by CVSALTS.
3. Demonstrated ability to act independently, perform unbiased technical evaluations, and work collaboratively with CV-SALTS peer reviewers and stakeholders.
4. Contractor's experience and qualifications in the following areas:
  - a. Ability to communicate complex technical information in more-simplified terms in presentations to CV-SALTS committees, agencies, and stakeholders.
  - b. Development of Water Quality Control Plan (Basin Plan)-related program documents that provide the basis Basin Plan Amendments for implementation of water quality management programs.
  - c. Preparation of technical analyses to support regulatory decision-making and policy discussions.
  - d. Technical proficiency and experience in surface water and groundwater modeling (including, but not necessarily limited to, WARMF, CVHM, MODFLOW, MODPATH) and use of GIS as a data analysis tool.
  - e. Ability to integrate groundwater and surface water data/analyses to evaluate flow and water quality spatially and temporally.
  - f. Regional planning including salt and nitrate management alternatives development;
  - g. Understanding of Central Valley salt/nitrate issues in particular as they relate to municipal/domestic, industrial, and agricultural water users.
  - h. Development of economic analyses, in particular analyses used to support development of a BPA.
  - i. Development of CEQA Equivalent documentation to support a BPA.
5. Overall experience and qualifications of key personnel in salinity and nitrate analyses, water resource management alternatives, and Basin Planning-related activities, including conducting economic or CEQA-related analyses.

### ***Evaluation Criteria for Project Management Qualifications***

6. Clear project management approach that demonstrates how the Contractor would execute any authorized task, especially with regards to internal coordination among firms, communication with CV-SALTS, and completion of project deliverables.
7. Demonstrated project management experience in a stakeholder environment where frequent coordination, collaboration, and reporting may be required.
8. Track record for responsiveness in a stakeholder environment, including responding to verbal and written requests for information or explanations of technical results.
9. Demonstrated ability to implement approved SOWs and document cost expenditures in an accurate and timely manner.
10. Track record for completing complex work products on schedule and on budget.

### ***Evaluation Criteria for Project Costs***

11. Clarity and completeness of the proposed fee schedule, including explanation of direct expenses and subcontractor costs.
12. Appropriateness of proposed fee structure in relation to the value and quality of services expected to be provided by key personnel.

## **8 - General Requirements**

All proposers are hereby advised that this RFQ is an informal solicitation and is not a commitment or offer to enter into an agreement or engage into any competitive bidding or negotiation pursuant to any statute, ordinance, rule, or regulation. CVSC, SJVDA, and Water Boards reserve the right to negotiate with any qualified source allowed under law. CVSC, SJVDA, and Water Boards reserve the right to reject any or all submissions for any reason or for no reason at all.

CVSC, SJVDA, and Water Boards reserve the right to request further information from the proposer, either in writing or orally. Such request will be addressed to that person or persons authorized by the proposer to represent the proposer. CVSC, SJVDA and Water Boards reserve the sole right to judge the proposer's representations, either written or oral. The CV-SALTS Executive Committee will make the final selection decision for the award contracts.

Proposers understand and agree that submission of their proposal constitutes acknowledgement and acceptance of, and a willingness to comply with, all terms, conditions, and criteria contained in this RFQ.

False, incomplete, or unresponsive statements in connection with a submission may be sufficient cause for the rejection of the submission. The valuation and determination of the fulfillment of the above requirement will be CVSC, SJVDA, and Water Boards responsibility and their decision shall be final.

The CVSC, SJVDA, and Water Boards reserve the right to interpret or change any provisions of this RFQ at any time prior to the submission date. Such interpretations or changes will be in the form of addenda to this RFQ. Such addenda will become part of this RFQ and may become part of any resultant contract. Such addenda will be made available to each person or organization that is known to have received this RFQ. Should such addenda require additional information not previously requested, a firm's failure to address the requirements of such addenda might result in the submission being disqualified or ranked

lower in reviews. All proposals submitted in response to this RFQ will become the exclusive property of the CVSC, SJVDA and Water Boards and will be made available to CV-SALTS stakeholders.

This project is intended to be funded from CAA funds awarded by the State Water Board under a contract with the San Joaquin Valley Drainage Authority. The terms and condition of those funds and the requirements of that contract will apply to the contractor (see Attachment B - Appendix 1) . The SJVDA or other CV-SALTS entities may at their discretion fund this project from proceeds of State, Federal or other grants or agreements and Contractor’s contract may be managed by the agency providing funding with different or additional requirements which must be complied with. These issues will be resolved at the time of contracting with the selected Contractor.

CVSC, SJVDA and Water Boards shall not in any way be liable for any costs incurred in connection with the preparation of any submission provided in response to this RFQ.

The Contractor shall execute a Standard Agreement for Services with the selected agency. The SJVDA terms are shown in **Attachment B**. Submission of a proposal without any notification of exceptions is deemed acceptance of the terms and conditions in the Standard Agreement for Services.

Attachment B – Appendix 1 has a requirement that SJVDA is responsible for submitting a final report summarizing all work completed under the contract. The Contractor shall be responsible for the applicable reporting.

## 9 - Schedule of Submission Events

The following table contains the expected Proposal Schedule of Events for this RFQ/RFP process. SJVDA and the CVSC retain the right to modify this schedule as needed to support unexpected circumstances.

### Proposal Schedule of Events

RFQ Distributed/Posted to Website	November 14, 2014
SOQ Submissions Due	December 19, 2014
Committee Recommendation of Award(s)	January 9, 2015*
CV-SALTS Executive Committee Approval	January 16, 2015*
SJVDA Approval	January 20, 2015*
Execution of Agreement/Notice to Proceed	January 30, 2015*

\* estimated date

## 9 - Proposal Authorization

(Please provide this document on your letterhead)

I certify I am authorized to submit this proposal on behalf of my company, \_\_\_\_\_ (company name), and this submission conforms to required specifications unless otherwise noted.

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Company Name

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Submission Submitted by

---

Title

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Signature

---

Date

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Email

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Telephone

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Facsimile

## ATTACHMENT A – Potential Project Tasks to Support CV-SALTS

Additional information regarding the nature of past or ongoing CV-SALTS projects may be found at <http://cvsalinity.org/index.php/committees/technical-advisory/technical-projects-index.html>

The full list of tasks services to be performed with CAA Funding under the SJVDA contract is shown in the list below. Tasks maybe funded solely through that mechanism or with funding supplemented by the Central Valley Salinity Coalition. The tasks shown below are a mix of those that are currently underway and those that have not been contracted but may be authorized in the future to support the goals of CV-SALTS. **Tasks in Bold are expected to be contracted under this SOQ.**

- 1) Technical Project Coordination
  - a) Technical Project Management support efforts of CV-SALTS Technical and Executive committees
  - b) Provide Basin Planning support by developing draft scopes of work on behalf of CV-SALTS for technical work with draft schedule and costs.
  - c) Basin Planning support developing strategies for preparation of the SNMP and supporting basin plan amendment language
  - d) On behalf of CV-SALTS manage and provide updates on subcontracted work to technical and executive committees
  - e) Ensure all technical work needed for a salt and nitrate management plan robust enough to support a basin plan amendment is fully drafted by March 2016 for final review and approval by 1 April 2016
  - f) Provide sub-committee manager support to the Lower San Joaquin River Committee to facilitate workplan implementation for Salt and Boron Water Quality Objectives.
  
- 2) Focused technical studies identified by the CV-SALTS Technical Committee and approved by the Executive Committee to support evaluation of beneficial uses
  - a) CEQA Support for the evaluation of the appropriate designation and level of protection of MUN beneficial uses in constructed agricultural drains as well as other agriculturally dominated water bodies.
  - b) Conduct CEQA and economics analyses to support evaluation of beneficial uses in designated area within the Tulare Lake Bed.
  - c) Aquatic Life Beneficial Use Study a technical analysis to identify salinity related water quality criteria including recommendations for adoption of salinity related water quality objectives to protect aquatic life.
  
- 3) Develop Conceptual Model of Water, Salt and Nitrate Sources and Interactions
  - a) Initial Conceptual Model (ICM) (Phase I) – Utilize Pilot Salt and Nitrate Source Study, USBR Westside Salt and Nitrate Study, and Tulare Salt Source Study and other information to compile and organize existing data into an initial conceptual model of water, salt and nitrate movement and interactions for the Central Valley Basins. Refine Beneficial Use and Objective Study (BUOS) (developed under contract 09-076-150) through final technical review to minimize errors and insure stakeholder information correctly portrayed, including an update of GIS layers.
  - b) Conceptual Model (Phase II) - Extension of the ICM project that includes the following work elements: refine project database, develop salt/nitrate data analysis methods to support SNMP antidegradation analysis, evaluate

use of a Management Zone approach to locally manage salt/nitrate, and prepare technical elements of the SNMP

- c) Conceptual Model (Phase III) SNMP Supporting Documentation – Economic Analysis – Consistent with requirements for a Basin Plan Amendment, document economic costs and benefits as well a societal impacts of current regulation, future regulation, and proposed program of implementation to support adoption of the SNMP. Prepare SNMP Antidegradation Analysis consistent with the methods developed under the Phase II Conceptual Model project (Task 3b above).**

**d) Prepare the Monitoring & Surveillance Plan for inclusion in the SNMP**

- 4) Strategic Salt Accumulation Land and Transportation Study (SSALTS)
- a) Identify and analyze range of viable Central Valley alternatives for salt disposal to support development of implementation measures for inclusion in the SNMP.
  - b) Develop nitrate management alternatives and conduct additional salinity management alternatives analyses (if needed to supplement SSALTS findings) to support development of implementation measures for inclusion in the SNMP
- 5) Central Valley Salt and Nitrate Management Plan (SNMP)
- a) Building on the preliminary draft SNMP developed under Task 3d above, develop a final Central Valley SNMP that clearly supports the policy objectives, beneficial uses, water quality objectives, implementation and other elements required for a robust basin plan amendment.
  - b) At a minimum, the SNMP must satisfy the requirements of the California Recycled Water Policy.
- 6) **Draft Central Valley Basin Plan Amendment Language**
- a) **Develop information and supporting documentation for the environmental review process pursuant to Public Resources Code 21080.5. Such information development may include Substitute Environmental Documents (CEQA Equivalent)**
  - b) **Utilizing the Central Valley SNMP, develop appropriate draft Basin Plan language for adoption of SNMP into both the Sacramento-San Joaquin and Tulare Lake Basin Plans**

Additional potential tasks shown below may be authorized or contracted outside of funding from the SJVDA by the Central Valley Salinity Coalition; no specific budget or timeline is available.

- 7) Project activities that use, improve, or modify existing GIS data layers and/or databases to support CV-SALTS technical or policy development activities
- 8) Implementation of planning studies and data collection activities to support policy development and elements of the SNMP
- 9) Additional technical and economic analyses and documentation to support the development of the SNMP and the planned BPA
- 10) Development of additional technical analyses to support CV-SALTS salt and nitrate management policy development
- 11) Technical support for the Lower San Joaquin River Committee. See the website specific to this effort for additional information (<http://cvsalinity.org/index.php/ljsr.html>)

## **ATTACHMENT A-1 SURVEILLANCE AND MONITORING PROJECT SCOPE**

### Preliminary Outline and Performance Specifications with Deliverables

Propose costs based on an approach which uses existing data developed from existing monitoring programs and identify the geographic, temporal and constituent data gaps. Propose a method to aggregate data from existing programs on a regular interval as needed to reevaluate the status of salinity and nitrate in the Central Valley on a large scale. Specific monitoring plans may be developed or archetypes or Management Zones.

Coordinate ongoing requirements from Regional Board regulatory program requirements and data and propose a workplan to answer questions in the following areas.

1. Who will do the monitoring, analysis and reporting?
2. How will the data be aggregated, managed and assessed?
3. Key Sample locations – Groundwater and Surface Waters
4. Who will be in charge of the program implementation?
5. Which Salt and Nitrate constituents?
6. Monitoring and assessment frequency?
7. Who will be responsible for data analysis and review?
8. How will it be funded?
9. What type of follow-up action by the Regional Board is needed?
10. How will stakeholder review and input be incorporated?
11. How will program adapt to changes?

### Deliverables

1. Workplan for approval
2. Implementation timeline for Monitoring and Assessment
3. Technical memo (items above)
4. Statement of General Monitoring Goals for CV-SALTS and Surveillance and Monitoring incorporation into the Basin Plan

SAN JOAQUIN VALLEY DRAINAGE AUTHORITY

**AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT, effective \_\_\_\_\_ between the San Joaquin Valley Drainage Authority, hereinafter referred to as "Drainage Authority" or "SJVDA" and \_\_\_\_\_; hereinafter referred to as "Contractor" or "\_\_\_\_\_."

The Drainage Authority requires services for the projects to implement the Central Valley Salinity Alternatives for Long-term Sustainability (CV-Salts), a stakeholder initiative being conducted by the Central Valley Water Board (Regional Board) and the Central Valley Salinity Coalition (Coalition) in conjunction with the State Water Resources Control Board (State Water Board); and the Contractor is willing to perform these services pursuant to the terms and conditions set out in this Agreement.

IT IS MUTUALLY AGREED, as follows:

1. PURPOSE OF CONTRACT

The Drainage Authority is entering into this Agreement with Contractor in order to obtain professional services required to fulfill Contractor's obligations under Agreement No. 11-123-555 (Agreement) between the San Joaquin Valley Drainage Authority and the State Water Resources Control Board (SWRCB), a complete copy of which is attached as Appendix 1 to this Agreement.

2. SCOPE OF SERVICES

The Drainage Authority hereby engages the Contractor, and the Contractor agrees to perform the services for the **San Joaquin Valley Drainage Authority**, as described in Attachments A and B, which are incorporated by reference herein. The Contractor has been identified as a subcontractor of the Drainage Authority, and the Contractor's services have been described and budgeted in Appendix 1. Contractor shall perform and coordinate work with the Drainage Authority so that the Master Agreement can be completed.

Appendix 1 has a requirement for submitting a final report summarizing all work completed under the contract. The Contractor shall be responsible for the applicable reporting for work completed under this contract.

A. Modification of Scope of Services Any change in the Scope of the Professional Services to be done, method of performance, nature of materials or price thereof, or to any other

matter materially affecting the performance of nature of the professional services will not be paid for or accepted unless such change, addition or deletion be approved in advance, in writing, by the Drainage Authority.

B. Contractor's Subcontracts The Contractor shall not enter into subcontracts for any services contemplated under this Agreement without the prior written consent of the Drainage Authority.

### 3. TERM OF AGREEMENT AND PERFORMANCE SCHEDULE

This Agreement shall become effective as of the effective date on page 1. Contractor shall perform the services specified under this Agreement in accordance for the Performance Schedule set forth in Attachments A and B, which are incorporated by reference herein, unless such Schedule is modified by mutual agreement, with the approval of the State Water Board, Central Valley Regional Contract Manager (Contract Manager). Neither party shall be liable for delays from causes beyond its control.

### 4. COMPENSATION AND METHOD OF PAYMENT

A. Amount Compensation for services shall be as described in Attachment C, which is incorporated by reference herein, not to exceed \$\_\_\_\_\_ for all work contemplated by this Agreement.

B. Payment Upon submission of an invoice by the Contractor, and upon approval by the Drainage Authority's representative, the Drainage Authority shall pay the Contractor within 14 days after payment is received by the Drainage Authority from the SWRCB for said invoice no more often than monthly for fees and allowed expenses incurred the prior month, up to the maximum amount provided for in paragraph 4 of this Agreement. If Contractor does not receive payment within 60 days of submission of an invoice, Contractor and Drainage Authority shall meet and confer and attempt to resolve any late or non-payment issues. Drainage Authority further agrees to seek any remedies it may have under its contract with the State Water Board to allow Contractor to suspend work without liability until payment is received, including but not limited to, renegotiation of the approved Schedule described in Attachments A and B to this Agreement or pursuit of the State Water Board's dispute resolution process, so long as such delay does not trigger a default by Drainage Authority under the terms of its Agreement set forth in Appendix 1. Ten percent of any progress payment that may be provided under this agreement shall be withheld by the SWRCB pending satisfactory completion of the work under this Agreement in accordance with Appendix 1. To the extent authorized under the terms of Appendix 1, retention amounts will be released as each task is completed. Satisfactory completion will require approval from the SWRCB Contract Manager.

### 5. CONTRACTOR'S PROFESSIONAL STATUS

A. Performance Standard The Contractor shall conduct all work consistent with the professional standards of the industry and type of work being performed under the Agreement.

B. Standard of Care The Drainage Authority has relied upon the professional ability and training of the Contractor as a material inducement to enter into this Agreement. The Contractor hereby represents that all of its work will be performed in accordance with generally accepted professional practices and standards, as well as the requirements of applicable federal, state and local laws.

C. Professional Liability Insurance Contractor shall procure and/or maintain Professional Liability Insurance coverage for protection from claims arising out of performance of any professional services under this Agreement due to the Engineer's professional negligent acts errors or omissions. Total liability under this provision shall not exceed the Contractor's compensation for services.

## 6. INSURANCE

Contractor will file with the Drainage Authority before beginning professional services and thereafter, annually on the policy renewal date, certificates of insurance satisfactory to the Drainage Authority evidencing general liability coverage of not less than \$1,000,000 per occurrence (\$2,000,000 general aggregate) for bodily injury, personal injury and property damage; auto liability of at least \$1,000,000 for bodily injury and property damage each accident limit; workers' compensation (statutory limits). Should any of the policies be cancelled before the expiration thereof, notice will be delivered in accordance with the policy provisions. Contractor shall provide notice to the Drainage Authority at any time the Contractor becomes aware of any cancellation or material change in any of the insurance policies. Any insurance, self-insurance or other coverage maintained by the Drainage Authority, its directors, officers, employees, or authorized volunteers shall not contribute to it. Coverage is to be placed with a carrier with an A.M. Best rating of no less than A-:VII or as otherwise approved by the Drainage Authority. In the event that the Contractor employs other contractors (sub-consultants or sub-contractors) as part of the work covered by this Agreement, it shall be the Contractor's responsibility to require and confirm that each sub-contractor meets the minimum insurance requirements specified above.

## 7. INDEMNIFICATION

Consultant hereby covenants and agrees that SJVDA, its officers, employees, and agents shall not be liable for any claims, liabilities, penalties, fines or any damage to property, whether real or personal, nor for any personal injury or death caused by, or resulting from, any negligent or reckless act or omission or willful misconduct of Consultant. Consultant shall indemnify but shall have no obligation to defend SJVDA and its officers, employees, and volunteers from and against liability for damages to the extent actually caused by Consultant's negligent or reckless act or omission or willful misconduct in Consultant's performance of the work required under this Agreement and any related Exhibit or Task Order or Consultant's failure to comply with any of its obligations contained in this Agreement and any related Exhibit or Task Order.

Consultant's obligations under this section shall exist, to the extent set forth above, regardless of concurrent active negligence or willful misconduct on the part of SJVDA or any other person.

8. GENERAL CONDITIONS

The Contractor agrees to comply with the Standard Conditions described in Exhibit D to this Agreement, said Exhibit D being incorporated by reference herein.

9. SPECIAL CONDITIONS

The Contractor agrees to comply with the Special Conditions described in Exhibit E to this Agreement, said Exhibit E being incorporated by reference herein.

10. COMPLIANCE WITH LAW

The Contractor shall be subject to and comply with all federal, state and local laws and regulations applicable with respect to its performance under this Agreement, including but not limited to, employment and purchasing practices; wages, hours and conditions of employment; and licensing and permit requirements.

11. TERMINATION

This Agreement may be terminated by the Drainage Authority for cause as specified in Exhibit D, General Conditions 7, and may be terminated by the Drainage Authority at any time, without cause, upon written notification to the Contractor. The Contractor may terminate this Agreement upon 60 days written notice to the Drainage Authority.

Subject to the provisions of Exhibit D, General Conditions 7, following termination by the Drainage Authority or the Contractor, the Contractor shall be reimbursed for all invoices due and payable and other expenditures made in good faith in accordance with the terms of this Agreement that are unpaid at the time of termination.

12. REPRESENTATION & NOTICE

A. Joseph C. McGahan is the SJVDA Project Manager. Unless this Agreement or a written notice to the Contractor provides to the contrary, the SJVDA Project Manager is the representative of the Drainage Authority authorized to execute agreements, issue approvals, and take all actions required to implement this Agreement, except that all payments shall be issued by the Drainage Authority's Accounting Department. Contractor shall submit all reports, invoices and other items required by this Agreement to the SJVDA Project Manager.

B. The Contractor's designated representative for purposes of this contract is \_\_\_\_\_.

C. Any notice provided for herein are necessary to the performance of this Agreement and shall be given in writing by personal delivery or by prepaid first-class mail addressed as follows:

DRAINAGE AUTHORITY

CONTRACTOR

Joseph C. McGahan  
SJVDA Project Manager  
San Joaquin Valley Drainage Authority  
P. O. Box 1122  
887 N. Irwin Street  
Hanford, CA 93232  
559-582-9237 Phone  
559-582-7632 Fax  
[jmcgahan@summerseng.com](mailto:jmcgahan@summerseng.com)

13. INTERPRETATION OF DOCUMENTS

A. Abbreviations and acronyms not expressly spelled out in this Agreement shall be called to attention of the Project Manager for clarification.

B. In the event any provision of this Agreement conflicts with terms contained in Appendix 1, the terms of this Agreement shall prevail over conflicting terms in Appendix 1.

14. AGREEMENT BINDING

This Agreement binds and is for the benefit of the parties and their respective heirs, successors, assigns and representatives.

15. HEADINGS

The titles of sections of this Agreement are for convenience only and no presumption or implication of the intent of the parties as to the construction of this Agreement shall be drawn therefrom.

16. CONFLICTS OF INTEREST

Contractor shall comply with all applicable State laws and rules pertaining to conflict of interest, including, but not limited to, Government Code section 1090, Government Code section 81000 et seq. (Political Reform Act), and Public Contract Code sections 10410 and 10411. Contractor certifies that its employees and the officers of its governing body shall avoid any actual or potential conflicts of interest and that no officer or employee who exercises any

functions or responsibilities in connection with this Agreement shall have any personal financial interest or benefit which either directly or indirectly arises from this Agreement. Contractor shall establish safeguards to prohibit its employees or its officers from using their positions for a purpose which could result in private gain or which gives the actual appearance of being motivated for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

The parties have executed this Agreement the day and year first above written. If the Contractor is a corporation, documentation must be provided that the person signing below for the Contractor has the authority to do so.

San Joaquin Valley Drainage Authority

Contractor: \_\_\_\_\_

By: \_\_\_\_\_  
Joseph C. McGahan  
SJVDA Project Manager

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

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

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

**Attachment A  
Scope of Work**

**Attachment B  
Schedule of Completion**

**Attachment C  
Cost Tables**

**EXHIBIT D – GENERAL CONDITIONS**

(Use Exhibit C from Master Agreement 11-123-555 Appendix 1)

**EXHIBIT E – SPECIAL CONDITIONS**

(Use Exhibit D – Additional Provisions from Master Agreement 11-123-555 Appendix 1)

**Appendix 1**

Agreement No. 11-123-555 (Agreement) between the San Joaquin Valley Drainage Authority  
and the State Water Resources Control Board (SWRCB)

Appendix 1  
Agreement No. 11-123-555 (Agreement) between the San Joaquin Valley Drainage Authority  
and the State Water Resources Control Board (SWRCB)

STATE OF CALIFORNIA  
**STANDARD AGREEMENT AMENDMENT**  
 STD. 213 A (Rev 6/03)

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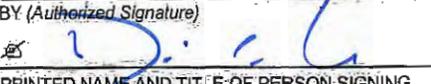
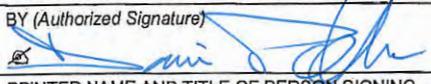
AGREEMENT NUMBER <b>11-123-555</b>	AMENDMENT NUMBER <b>1</b>
REGISTRATION NUMBER <b>ep 1184870</b>	

1. This Agreement is entered into between the State Agency and Contractor named below:  
 STATE AGENCY'S NAME  
State Water Resources Control Board  
 CONTRACTOR'S NAME  
San Joaquin Valley Drainage Authority
2. The term of this Agreement is November 17, 2011 through June 1, 2015
3. The maximum amount of this Agreement is \$3,800,000.00  
 Agreement after this amendment is: Three Million, Eight Hundred Thousand Dollars and Zero Cents.
4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

- I. **Purpose of Amendment:** The purpose of this Amendment is to extend the term of the Contract by one (1) year in support of the Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) efforts.
- II. **Effective Date of Amendment:** May 30, 2014
- III. Certain changes made in this amendment are shown as: Text additions are displayed in **bold and underline**. Text deletions are displayed as strike through text (i.e., ~~Strike~~).
- IV. Exhibit A – Scope of Work pages 6 and 7 have been revised and attached hereto.
- V. All previous references to the term of this contract shall now read:  
November 17, 2011 through June 1, 2015.

All other terms and conditions shall remain the same.

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

CONTRACTOR		CALIFORNIA Department of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) <u>San Joaquin Valley Drainage Authority</u>		
BY (Authorized Signature) 	DATE SIGNED (Do not type) <u>5/21/14</u>	
PRINTED NAME AND TITLE OF PERSON SIGNING <u>Daniel G. Nelson, Executive Director</u>		
ADDRESS <u>887 N. Irwin Street, P.O. Box 1122 Hanford, CA 93232</u>		
STATE OF CALIFORNIA		
AGENCY NAME <u>State Water Resources Control Board</u>		
BY (Authorized Signature) 	DATE SIGNED (Do not type) <u>5/23/14</u>	
PRINTED NAME AND TITLE OF PERSON SIGNING <u>Darrin Polhemus, Deputy Director, Division of Administrative Services</u>		
ADDRESS <u>1001 I Street, 18<sup>th</sup> Floor, Sacramento, CA 95814</u>		

Exempt per: PCC 10335

CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED 2 Pages

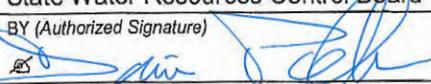
AGREEMENT NUMBER <b>11-123-555</b>	AMENDMENT NUMBER <b>1</b>
REGISTRATION NUMBER <b>eP1184870</b>	

- This Agreement is entered into between the State Agency and Contractor named below:  
STATE AGENCY'S NAME  
**State Water Resources Control Board**  
CONTRACTOR'S NAME  
**San Joaquin Valley Drainage Authority**
- The term of this Agreement is **November 17, 2011** through **June 1, 2015**
- The maximum amount of this Agreement after this amendment is: **\$3,800,000.00**  
**Three Million, Eight Hundred Thousand Dollars and Zero Cents.**
- The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

- Purpose of Amendment:** The purpose of this Amendment is to extend the term of the Contract by one (1) year in support of the Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) efforts.
- Effective Date of Amendment:** May 30, 2014
- Certain changes made in this amendment are shown as: Text additions are displayed in **bold and underline**. Text deletions are displayed as strike through text (i.e., ~~Strike~~).
- Exhibit A – Scope of Work pages 6 and 7 have been revised and attached hereto.
- All previous references to the term of this contract shall now read:  
**November 17, 2011 through June 1, 2015.**

All other terms and conditions shall remain the same.

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

CONTRACTOR		CALIFORNIA Department of General Services Use Only
CONTRACTOR'S NAME (If other than an Individual, state whether a corporation, partnership, etc.) <b>San Joaquin Valley Drainage Authority</b>		
BY (Authorized Signature) 	DATE SIGNED (Do not type) <b>5/21/14</b>	
PRINTED NAME AND TITLE OF PERSON SIGNING <b>Daniel G. Nelson, Executive Director</b>		
ADDRESS <b>887 N. Irwin Street, P.O. Box 1122 Hanford, CA 93232</b>		
STATE OF CALIFORNIA		
AGENCY NAME <b>State Water Resources Control Board</b>		
BY (Authorized Signature) 	DATE SIGNED (Do not type) <b>5/23/14</b>	
PRINTED NAME AND TITLE OF PERSON SIGNING <b>Darrin Polhemus, Deputy Director, Division of Administrative Services</b>		
ADDRESS <b>1001 I Street, 18<sup>th</sup> Floor, Sacramento, CA 95814</b>		

Exempt per: PCC 10335

**Exhibit A**  
**Scope of Work**

- 6) Develop information and supporting documentation for the environmental review process pursuant to Public Resources Code 21080.5
  - a) Such information development may include Substitute Environmental Documents
  
- 7) Central Valley Salt and Nitrate Management Plan (SNMP)
  - a) Develop a Central Valley SNMP that clearly supports the policy objectives, beneficial uses, water quality objectives, implementation and other elements required for a robust basin plan amendment.
  - b) At a minimum, the SNMP must satisfy the requirements of the California Recycled Water Policy.
  
- 8) Draft Central Valley Basin Plan Amendment Language
  - a) Utilizing the Central Valley SNMP, develop appropriate draft Basin Plan language for both the Sacramento-San Joaquin and Tulare Lake Basin Plans

**5. Deliverables for Services to be Performed**

<b>Task</b>	<b>Deliverable</b>	<b>Due Date</b>
4A - 4C	Annual reports describing work completed during the year and invoices	31 January each year of eContract
4A – 4D	Draft overall final report	As approved by Contract Manager but no later than 15 February 2014 <del>2015</del>
4A – 4D	Final report and final invoice	15 May 2014 <del>2015</del>
4D-1)	Annual reports describing work completed during the year and invoices	31 January each year of eContract
4D-2)	Final Operational BUOS System	As approved by Contract Manager but no later than 15 February 2014
4D-3)	Final Central Valley Salt/Nitrate Conceptual Model	As approved by Contract Manager but no later than 15 February 2014 <del>2015</del>
4D-4)	Final individual technical studies reports	As approved by Contract Manager but no later than 15 February 2014 <del>2015</del>
4D-5)	Final Economic Analysis	As approved by Contract Manager but no later than 15 February 2014 <del>2015</del>
4D-6)	Develop Environmental Review Documentation	As approved by Contract Manager but no later than 15 February 2014 <del>2015</del>
4D-7)	Central Valley Salt and Nitrate Management Plan	As approved by Contract Manager but no later than 15 May 2014 <del>2015</del>

**Exhibit A**  
**Scope of Work**

4D-8)	Draft Basin Plan Amendment Language	As approved by Contract Manager but no later than 15 May <del>2014</del> <b>2015</b>
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STATE OF CALIFORNIA  
**STANDARD AGREEMENT**  
 STD 213 (Rev 06/03)

AGREEMENT NUMBER <b>11-123-555</b>
REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME <b>State Water Resources Control Board</b>	(Also referred to as SWRCB or the State)
CONTRACTOR'S NAME <b>San Joaquin Valley Drainage Authority</b>	(Also referred to as Contractor)

2. The term of this Agreement is: **Upon DGS' Approval** through **June 1, 2014**

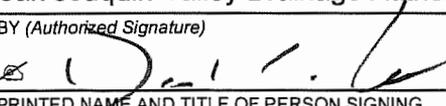
3. The maximum amount of this Agreement is: **\$ 3,800,000**  
**Three Million Eight Hundred Thousand Dollars.**

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	7 pages
Exhibit B – Budget Detail and Payment Provisions	5 pages
Exhibit B, Attachment I – Budget, Attachment I	1 page
Exhibit B, Attachment II – Budget, Attachment II	1 page
Exhibit C* - General Terms and Conditions	<u>GTC 610</u>
Exhibit D – Special Terms and Conditions	3 pages

Items shown with an Asterisk (\*) are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at [www.ols.dgs.ca.gov/Standard+Language](http://www.ols.dgs.ca.gov/Standard+Language)

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

<b>CONTRACTOR</b>	
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) <b>San Joaquin Valley Drainage Authority</b>	
BY (Authorized Signature) 	DATE SIGNED (Do not type) <b>11/15/11</b>
PRINTED NAME AND TITLE OF PERSON SIGNING <b>Daniel G. Nelson, Executive Director</b>	
ADDRESS <b>887 N. Irwin Street, P.O. Box 1122 Hanford, CA 93232</b>	
<b>STATE OF CALIFORNIA</b>	
AGENCY NAME <b>State Water Resources Control Board</b>	
BY (Authorized Signature) 	DATE SIGNED (Do not type) <b>11/16/11</b>
PRINTED NAME AND TITLE OF PERSON SIGNING <b>Miles Burnett, Assistant Deputy Director, Division of Administrative Services</b>	
ADDRESS <b>1001 I Street, 18<sup>th</sup> Floor, Sacramento, CA 95814</b>	

<b>California Department of          General Services Use Only</b> 		
<table border="1"> <tr> <td style="text-align: center;"><b>APPROVED</b></td> </tr> <tr> <td style="text-align: center;"><b>NOV 17 2011</b></td> </tr> </table> <b>DEPT OF GENERAL SERVICES</b>	<b>APPROVED</b>	<b>NOV 17 2011</b>
<b>APPROVED</b>		
<b>NOV 17 2011</b>		
<input type="checkbox"/> Exempt per:  		

**Exhibit A**  
Scope of Work

**1. Overview**

The San Joaquin Valley Drainage Authority (SJVDA) will provide contracting and contract administration services for projects to implement the Central Valley Salinity Alternatives for Long-term Sustainability (CV-SALTS), a stakeholder initiative being conducted by the Central Valley Water Board (Regional Board) and the Central Valley Salinity Coalition (Coalition) in conjunction with the State Water Resources Control Board (State Water Board) per the March 2010 Memorandum of Agreement.

**2. Project Representatives**

A. The project representatives during the term of this Agreement will be:

Central Valley Regional Water Quality Control Board	San Joaquin Valley Drainage Authority
Jeanne Chilcott, Contract Manager	Name: Dan Nelson, Project Director
Phone: (916) 464-4788	Phone: (209) 826-9696
Fax: (916) 464-4800	Fax: (209) 826-9698
E-mail: jchilcott@waterboards.ca.gov	E-mail: dan.nelson@sldmwa.org

B. Direct all inquiries to:

Central Valley Regional Water Quality Control Board	San Joaquin Valley Drainage Authority
Attention: Linda Bracamonte	Attention: Joseph McGahan
11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670-6114	Summers Engineering, Inc. 887 N. Irwin St., P.O. Box 1122 Hanford, CA 93232
Phone: (916) 464-4620	Phone: (559) 582-9237
Fax: (916) 464-4600	Fax: (559) 582-7632
E-mail: lbracamonte@waterboards.ca.gov	E-mail: JMcGahan@Summerseng.com

C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

**3. Background**

A. The State Water Board and the Regional Board have identified salinity as a major, widespread growing threat to maintaining the beneficial uses of surface water and groundwater in the Central Valley. Salinity and nitrate from past and current sources impair beneficial uses of waters throughout the basin and result in pollution of drinking water sources for some communities in the Central Valley. While there are salinity regulatory controls in place, a much more comprehensive approach is needed to effect regional change, including the development of

**Exhibit A**  
Scope of Work

Basin Plan amendments and involvement of the many stakeholders that use Central Valley waters.

- B. The Regional Board and the State Water Board have initiated a comprehensive effort to address salinity problems in California's Central Valley and adopt long-term solutions that will lead to enhanced water quality and economic sustainability. Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) is an effort to develop and implement a comprehensive salinity/nutrient management program. The goal of CV-SALTS is to maintain a healthy environment and a good quality of life for all Californians by protecting our most essential and vulnerable resource, water.
- C. The Central Valley Salinity Coalition (Coalition) is an organization formed under Internal Revenue Code Section 501(c)(6) for purposes of seeking supplemental funding from non-State parties for the Study and for assisting in the administration of CV-SALTS efforts. The Coalition has entered into a Memorandum of Agreement with the Regional Board and the State Water Board for CV-SALTS. Standing Rules have been approved to document the roles of the State Water Board, Regional Board, CV-SALTS Committees and Coalition.
- D. The San Joaquin Valley Drainage Authority (SJVDA) is a joint powers agency organized pursuant to the California Government Code Section 6500 et seq., comprised of 12 member local agencies for the purpose, among others, to identify and implement feasible regional long-term solutions to drainage issues affecting irrigated agricultural lands in the San Joaquin Valley, either alone or together with the State of California and/or the United States. The SJVDA is a member of the Coalition and an active participant in the CV-SALTS initiative and has proven experience with developing and implementing complex regional solutions to maximize water resource management by leveraging resources from State, Federal and local agencies (e.g. Department of Fish and Game, Agreement No. ERP-02D-P63, to manage upstream dissolved oxygen studies: \$6.8-million with 12-subcontractors).
- E. On March 17, 2009 the State Water Board adopted Resolution No. 2009-0023, which allocated \$1.2 million in Cleanup and Abatement Account funding to the Central Valley Regional Water Quality Control Board (Regional Board) in support of the development of a Salinity and Nutrient Management Plan for the Central Valley. The Regional Board has been provided the authority to utilize the funding for the first year of a multi-year effort to develop a salinity and nitrate management plan for the Central Valley (the State Board CV-SALTS Fund). Specifically, the funding was allocated for a Salinity and Nitrate Objective and Beneficial Use Study (Study), to establish a model using existing, reliable, and usable data from areas and water bodies within the Central Valley. The expectation is that this model will be used to establish beneficial uses and objectives for areas where little or no data exist.

**Exhibit A**  
Scope of Work

- F. On 7 September 2010, the State Water Board adopted Resolution No. 2010-0042, which approves the use of \$3.8-million in Cleanup and Abatement Account funding to continue the development of the salinity and nitrate management plan for the Central Valley (the State Board CV-SALTS Fund). The Regional Board has been provided the authority to utilize the funding to support year two (Phase 2-Collaborative Surface and Groundwater Data Collection and Analysis--\$2.0 million) and year three (Phase 3-Implementation Planning and Analysis--\$1.8 million) of the effort. The Regional Board Contract Manager will be responsible for the day to day contract management and invoice approval. The resolution recognizes that additional match funding must be developed through the Coalition to insure the success of the projects. The resolution also requires annual updates to the State Water Board on the progress achieved, including a summary of work accomplishments to date and a timeline for completion of work. Release of the \$1.8 million for the third year (Phase 3) of the effort is the responsibility of the State Water Board following annual updates and dependent on demonstration of sufficient progress in implementing the first two years (two Phases) including the development of outside stakeholder support and funding.
- G. This contract encumbers the \$3.8 million allocated for the second and third years (Phases) of the project with availability of \$1.8 million for the third year (Phase 3) contingent on the CV-SALTS initiative demonstrating sufficient progress in implementing the Project and developing outside stakeholder support and funding.
- H. Contracting with the SJVDA provides continuity with ongoing work from year one with continued ability to augment CAA funding with funding developed through the Coalition.

**4. Services to be Performed**

- A. Project Selection
  - 1) With input from CV-SALTS Committees, the Regional Board Contract Manager will identify and prioritize specific projects that will be conducted to complete the Study and will approve a detailed scope of work, including a description of the expected tasks, budgets, schedule, deliverables, and reporting requirements for each project proposed for funding.
  - 2) The Regional Board Contract Manager will also ask the CV-SALTS Executive Committee to: i) advise as to whether or not matching funds are available for the project; ii) designate the CV-SALTS Committee with primary review responsibility; iii) develop the draft Scope of Work for each proposed project; and iv) participate in the selection of the sub-contractor.

**Exhibit A**  
Scope of Work

- 3) The Regional Board Contract Manager shall provide the SJVDA with a notice to proceed together with the Final Scope of Work and any appropriate supporting documents for each approved project.
- 4) The Regional Board Contract Manager shall provide the SJVDA with notice on the State Water Board's decision to allow Phase 3 to proceed and a notice to proceed together with the final scope of work and any appropriate supporting documents for each approved project in Phase 3. In the event of a delay in the notice to proceed in Phase 3, the Regional Board Contract Manager and SJVDA shall agree on an appropriate extension of deliverable due dates.

**B. Matching Funds**

One goal of the CV-SALTS effort is to raise funds and conduct projects that support the development of a Salinity and Nitrate Management Plan for the Central Valley. The SJVDA may use State Board funds and funding from other sources to subcontract work related to the Study. When this occurs, the subcontract will clearly state which work products are paid for by State Board funds.

**C. Contracts and Administration**

- 1) Promptly upon receipt of the notice to proceed from the Regional Board Contract Manager, the SJVDA will implement a process to solicit services to implement the approved project.
  - a) The SJVDA will develop appropriate packages and request proposals in accordance with the requirements of Section 3.06 of the State Contracting Manual.
  - b) Prior to the award of a subcontract for any approved project, the SJVDA shall submit the proposed subcontract for approval by the Regional Board Contract Manager.
- 2) The SJVDA shall provide oversight and management of the projects, including, but not limited to the following:
  - a) All projects must include a process for providing progress reports and draft reports to the State Water Board/Regional Board Contract Manager and appropriate CV-SALTS committees, allowing time for development of comments by these parties, and for responding to the comments received.
  - b) For projects with match funding, SJVDA shall ensure that projects include measures to verify i) that information included in the proposals describes

**Exhibit A**  
Scope of Work

the tasks to be funded with State Board funds and separately describes the additional or augmented tasks to be accomplished with match funds; and ii) that match funding is available in the amount described in the approved project prior to the start of work performed under the subcontract.

- c) The SJVDA will prepare and submit quarterly reports describing work completed during the quarter and invoices as described in Exhibit B of this contract; no work performed prior to the approval of State Board Resolution 2010-0042 for \$3.8-million is eligible for reimbursement and funds expended prior to that date shall be considered match funds of any project approved prior to that date.
- d) Five hard copies and one electronic copy of each of the final project reports prepared under this contract will be submitted to the State Water Board/Regional Board Contract Manager. Final payment will not be made until the reports are received and accepted by the State Water Board/Regional Board Contract Manager.
- e) The SJVDA will prepare and submit a final report summarizing all work completed under this contract.
- f) In the event the State Water Board/Regional Board Contract Manager determines not to proceed with Phase 3 funding, the SJVDA shall have no obligations for Phase 3 subcontracts or Phase 3 administration under this agreement

D. Subcontracted Technical Tasks

- 1) Technical Project Coordination
  - a) Support efforts of CV-SALTS Technical Subcommittee
  - b) Develop draft scopes for technical work with draft schedule and costs
  - c) Manage and provide updates on subcontracted work
  - d) Ensure all technical work needed for a salt and nitrate management plan robust enough to support a basin plan amendment is completed by January 2014 for final review and approval by 14 May 2014
- 2) Refine Beneficial Use and Objective Study (BUOS) phase II
  - a) Final technical review to minimize errors and insure stakeholder information correctly portrayed.
- 3) Develop conceptual Model of Water, Salt and Nitrate Sources and Interactions
  - a) Utilize Pilot salt and Nitrate Source Study, USBR Westside Salt and Nitrate Study, and Tulare Salt Source Study and other information to compile and organize existing data into an initial conceptual model of

**Exhibit A**  
Scope of Work

- water, salt and nitrate movement and interactions for the Central Valley Basins.
- b) Identify and develop missing information as needed to insure conceptual model can be utilized for implementation planning efforts
- 4) Focused technical studies identified by the CV-SALTS Technical Committee and approved by the Executive Committee and State/Regional Board contract manager
    - a) Identify implementation alternatives
  - 5) Economic Analyses
    - a) Document economic costs and benefits as well a societal impacts of current regulation, future regulation and proposed program of implementation
  - 6) Develop information and supporting documentation for the environmental review process pursuant to Public Resources Code 21080.5
    - a) Such information development may include Substitute Environmental Documents
  - 7) Central Valley Salt and Nitrate Management Plan (SNMP)
    - a) Develop a Central Valley SNMP that clearly supports the policy objectives, beneficial uses, water quality objectives, implementation and other elements required for a robust basin plan amendment.
    - b) At a minimum, the SNMP must satisfy the requirements of the California Recycled Water Policy.
  - 8) Draft Central Valley Basin Plan Amendment Language
    - a) Utilizing the Central Valley SNMP, develop appropriate draft Basin Plan language for both the Sacramento-San Joaquin and Tulare Lake Basin Plans

**5. Deliverables for Services to be Performed**

<b>Task</b>	<b>Deliverable</b>	<b>Due Date</b>
4A - 4C	Annual reports describing work completed during the year and invoices	31 January each year of contract
4A – 4D	Draft overall final report	As approved by Contract Manager but no later 15 February 2014
4A – 4D	Final report and final invoice	15 May 2014
4D-1)	Annual reports describing work completed during the year and invoices	31 January each year of contract
4D-2)	Final Operational BUOS System	As approved by Contract Manager but no later than 15 February 2014

**Exhibit A**  
Scope of Work

4D-3)	Final Central Valley Salt/Nitrate Conceptual Model	As approved by Contract Manager but no later than 15 February 2014
4D-4)	Final individual technical studies reports	As approved by Contract Manager but no later than 15 February 2014
4D-5)	Final Economic Analysis	As approved by Contract Manager but no later than 15 February 2014
4D-6)	Develop Environmental Review Documentation	As approved by Contract Manager but no later than 15 February 2014
4D-7)	Central Valley Salt and Nitrate Management Plan	As approved by Contract Manager but no later than 15 May 2014
4D-8)	Draft Basin Plan Amendment Language	As approved by Contract Manager but no later than 15 May 2014

**Exhibit B**  
Budget Detail and Payment Provisions

**1. Invoicing**

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the budget(s) attached hereto.
- B. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

Jeanne Chilcott  
State Water Resources Control Board  
California Regional Water Quality Control Board  
Central Valley Region  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114

- C. Invoices shall:

- 1) Be prepared on agency letterhead. If invoices are not on produced letterhead, invoices must be signed by an authorized official, employee, or agent certifying that the expenditures claimed represent actual expenses for the service performed under this contract.
- 2) Bear the Contractor's name as shown on the agreement.
- 3) Identify the billing and/or performance period covered by the invoice.
- 4) Itemize costs for the billing period in the same or greater level of detail as indicated in this agreement. Only those costs and/or cost categories expressly identified as allowable in this agreement may be reimbursed.

**2. Progress Payment Withholds**

- A. Progress payments shall not be made more frequently than monthly in arrears or at clearly identifiable stages of progress, based upon written progress reports submitted with contractor's invoices.
- B. Ten percent (10%) shall be withheld by the State Water Board from each invoice submitted for reimbursement, under the following conditions:
  - 1) For services and costs associated with contractor and/or subcontractor performance that is considered to be of an ongoing nature or performed continuously throughout the term of the agreement.
  - 2) For individual services associated with a specific agreement deliverable that has not yet been received or completed in its entirety.
  - 3) For individual and/or distinct tasks, work plans, or project activities that have not yet been completed in their entirety.

**Exhibit B**  
Budget Detail and Payment Provisions

- C. Release of Amounts Withheld: As individual and/or distinct task, services, work plans, or project activities are completed in their entirety by either the Contractor or Subcontractor and any scheduled/required deliverables or reports are delivered to the State Water Board; then any funds so withheld may be released to the Contractor upon acceptance and/or acknowledgement that all such items have been completed to the full satisfaction of the State Water Board. The contractor must submit a separate invoice for the withheld amounts.

**3. Budget Contingency Clause**

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.
- C. The State's obligation to make any payment under this contract shall be suspended during such time as the Budget Act covering that fiscal year has not been approved by the Legislature and signed by the Governor.

**4. Amounts Payable**

- A. The amounts payable under this agreement shall not exceed:
- 1) \$3,800,000 from the date of approval by the Department of General Services / Office of Legal Services (DGS/OLS) through June 1, 2014.
- B. Reimbursement shall be made for allowable expenses up to the amount annually encumbered commensurate with the state fiscal year in which services are performed and/or goods are received.

**5. Recovery of Overpayments**

- A. SJVDA agrees that claims based upon a contractual agreement or an audit finding and/or an audit finding that is appealed and upheld, will be recovered by the State Water Board via one of the following options:
- 1) SJVDA remittance to the State Water Board of the full amount of the audit exception within 30 days following the State Water Board's request for repayment;

**Exhibit B**  
Budget Detail and Payment Provisions

- 2) Repayment schedule which is agreeable to both the State Water Board and SJVDA.
- B. The State Water Board reserves the right to select the recovery option that will be employed and the SJVDA will be notified by the State Water Board in writing of the claim procedure to be utilized.
- C. Interest on the unpaid balance of the audit finding or debt will accrue at a rate equal to the monthly average of the rate received on investments in the Pooled Money Investment Fund commencing on the date that an audit or examination finding is mailed to the SJVDA, beginning 30 days after SJVDA receipt of the State Water Board's demand for repayment.
- D. If the SJVDA has filed a valid appeal to the State Water Board regarding the report of audit findings, recovery of the overpayments will be deferred until a final administrative decision on the appeal has been reached. If SJVDA loses the final administrative appeal, SJVDA shall repay, to the State Water Board, the over-claimed or disallowed expenses, plus accrued interest. Interest accrues from the SJVDA first receipt of the State Water Board's notice requesting reimbursement of questioned audit costs or disallowed expenses.

**6. Expense Allowability / Fiscal Documentation**

- A. Invoices, received from a Contractor and accepted and/or submitted for payment by the State, shall not be deemed evidence of allowable agreement costs.
- B. Contractor shall maintain for review and audit and supply to the State Water Board upon request, adequate documentation of all expenses claimed pursuant to this agreement to permit a determination of expense allowability.
- C. If the allowability or appropriateness of an expense cannot be determined by the State because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles or practices, all questionable costs may be disallowed and payment may be withheld by the State. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.
- D. Costs and/or expenses deemed unallowable are subject to recovery by the State Water Board. See provision 5 in this exhibit entitled, "Recovery of Overpayments" for more information.

**7. Timely Submission of Final Invoice**

- A. A final undisputed invoice shall be submitted for payment no later than May 15, 2014 unless a later or alternate deadline is agreed to in writing by the program contract manager. Said invoice should be clearly marked "Final Invoice", thus indicating that all

**Exhibit B**  
Budget Detail and Payment Provisions

payment obligations of the State under this agreement have ceased and that no further payments are due or outstanding.

- B. The State may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written State approval of an alternate final invoices submission deadline. Written State approval shall be sought from the program contract manager prior to the expiration or termination date of this agreement.

**8. Budget Flexibility Clause**

- A. Subject to the prior review and approval of the contract manager, line items shifts of up to \$25,000 or 10% of the annual contract total, whichever is less, may be made up to a cumulative maximum of \$25,000 or 10%, whichever is less, for all line items shifts over the life of the contract.
- B. There must be a substantial business justification for any shifts made. Fund shifts which increase Indirect, Overhead or General Expenses line items are prohibited.
- C. Line item shifts may be proposed/requested by either the State Water Board or the Contractor in writing and must not increase or decrease the total contract amount allocated. Any line item shifts must be approved in writing by the Deputy Director of (managing division), or his/her designee, and must be sent to Contract Office within 10 days of approval for inclusion in the contract folder.
- D. If the contract is formally amended, any line item shifts agreed to by the parties must be included in the amendment.

**9. Subcontracting Requirements**

As a requirement of this Agreement (and any amendments thereto), subcontracting is limited to \$50,000 or 25% of the total contract, whichever is less. If the total of all subcontracts exceeds the limitation, all subcontracts must be in accordance with the following conditions:

- A. Subcontract service(s) must be selected by the primary contractor pursuant to a bidding process requiring at least three bids from responsible bidders. A bidding process is not a required when a subcontractor(s) is one of the following entities:

Entities excluded from bidding:

- 1) Another state entity, including:
  - a) A governmental agency from any state (Public Contract Code § 10340)
  - b) A state college or state university from any state.
- 2) A local governmental entity or agency, including those created as a Joint Powers Authority (JPA)
- 3) An auxiliary organization of the California State University (CSU), or a California community college

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Budget Detail and Payment Provisions

- 4) The Federal Government
  - 5) A foundation organized to support the Board of Governors of the California Community Colleges, or
  - 6) An auxiliary organization of the Student Aid Commission established under Education code § 69522.
- B. In the event subcontracted service(s) cannot be selected through the bidding process as described in paragraph A above the contractor then must submit to the State Water Board: in advance name(s) of the subcontractor(s), services being provided, an explanation outlining the subcontractor(s) unique qualifications that qualified them to be selected through a non competitive bid process, and the number of contracts awarded to them by the primary contractor in the last twelve months.
- C. The State Water Board will only pay overhead charges on the first \$25,000 for each subcontract.
- D. Subcontracted services must be disclosed in the line item budget.

**Exhibit B, Attachment I**  
Budget (Phase 2)  
(Upon DGS/OLS Approval through June 1, 2014)

<b>Personnel</b>		
<u>Position Title and Number of each</u>	<u>Hourly Rate</u>	
Accountant	\$86.61	
Project Manager	\$160 - \$170	
Attorney	\$195 - \$300	
		<b>Total Personnel</b> \$164,000
<b>Fringe Benefits</b> (included in Personnel)		
<b>Operating Expenses</b>		\$ 12,500
<b>Travel</b>		\$ -0-
<b>Equipment</b>		\$ -0-
<b>Subcontracts</b>		
<p>TBD - These services will be subcontracted in accordance with SCM 3.06 as detailed in Section 10 Subcontracting Requirement of Exhibit B and Scope of Work, contained in Exhibit A. Final task amounts will be included into the contract through a budget modification once individual scopes of work are completed and match funding secured (per Resolution #2010-0042 requiring match). Total subcontract costs under this phase of the agreement will not exceed \$1,837,500.</p>		
Task 4D1. Technical Project Manager		\$ 427,950
Task 4D1d: Basin Planning Support		\$ 58,050
Task 4D2. Refine Beneficial Use and Objective Study (BUOS Phase II)		\$ 75,000
Task 4D3. Develop Salt and Nitrate Conceptual Model for Central Valley		\$ 750,000
Task 4D4. Conduct Technical Studies as Directed by CV-SALTS Executive Committee		\$ 512,500
		<b>Total Subcontracts</b> \$1,837,500
<b>Other Costs</b>		\$ -0-
		<b>Total Costs</b> \$2,000,000

**Exhibit B, Attachment II**  
Budget (Phase 3)  
(July 1, 2012 through June 1, 2014)

**Personnel**

<u>Position Title and Number of each</u>	<u>Hourly Rate</u>
Accountant	\$86.61
Project Manager	\$160 - \$170
Attorney	\$195 - \$300

**Total Personnel** \$135,000

**Fringe Benefits** (included in Personnel)

**Operating Expenses** \$ 7,500

**Travel** \$ -0-

**Equipment** \$ -0-

**Subcontracts**

TBD - These services will be subcontracted in accordance with SCM 3.06 as detailed in Section 10 Subcontracting Requirement of Exhibit B, and Scope of Work contained in Exhibit A. Final task amounts will be included into the contract through a budget modification once the State Water Board determines to fund this Phase 3 and once individual scopes of work are completed and match funding secured (per Resolution #2010-0042 requiring match). Total subcontract costs under this phase of the agreement will not exceed \$1,657,500.

Task 4D4. Conduct Technical Studies as Directed by CV-SALTS Executive Committee \$ 307,500

Task 4D5. Conduct Economic Analysis of Implementation Alternatives \$ 250,000

Task 4D6. Develop Environmental Review Documentation \$ 750,000

Task 4D7. Develop Central Valley Salt and Nitrate Management Plan (SNMP) \$ 300,000

Task 4D8. Draft Central Valley Basin Plan Amendment Language \$ 50,000

**Total Subcontracts** \$1,657,500

**Other Costs** \$ -0-

**Total Costs** \$1,800,000

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

- 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
- 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

**Exhibit D**  
Special Terms and Conditions

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

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

2. RIGHTS IN DATA: The Contractor agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Agreement are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the State reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so. (40 CFR 31.34, 31.36)
3. DISCLOSURE REQUIREMENTS: Any document or written report prepared in whole or in part pursuant to this Agreement shall contain a disclosure statement indicating that the document or written report was prepared through Agreement with the State. The disclosure statement shall include the Agreement number and dollar amount of all Agreements and subcontracts relating to the preparation of such documents or written reports. The disclosure statement shall be contained in a separate section of the document or written report.

If the Contractor or subcontractor(s) are required to prepare multiple documents or written reports, the disclosure statement may also contain a statement indicating that the total Agreement amount represents compensation for multiple documents or written reports.

The Contractor shall include in each of its subcontracts for work under this Agreement a provision which incorporates the requirements stated within this Section. (Gov. Code 7550, 40 CFR 31.20)

**Exhibit D**  
Special Terms and Conditions

4. PERMITS, WAIVER, REMEDIES AND DEBARMENT: The Contractor shall procure all permits and licenses necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

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

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

Contractor shall not subcontract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension". Contractor shall not subcontract with any individual or organization on USEPA's List of Violating Facilities. (40 CFR, Part 31.35, Gov. Code 4477)

5. TRAVEL AND PER DIEM: Any reimbursement for necessary travel and per diem shall, unless otherwise specified in this agreement, be at the rates currently in effect, as established by the California Department of Personnel Administration (DPA). If the DPA rates change during the term of the agreement, the new rates shall apply upon their effective date and no amendment to this agreement shall be necessary. Local government agency, education and special districts will pay travel time and per diem according to their respective statutory requirements. No travel outside the state of California shall be reimbursed without prior authorization from the State Water Resources Control Board. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.
6. CANCELLATION / TERMINATION:
- A. This agreement may be cancelled or terminated without cause by either party by giving thirty (30) calendar days advance written notice to the other party. Such notification shall state the effective date of termination or cancellation and include any final performance and/or payment/invoicing instructions/requirements.
  - B. Upon receipt of a notice of termination or cancellation from the SWRCB, Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent contract costs.
  - C. Contractor shall be entitled to payment for all allowable costs authorized under this agreement, including authorized non-cancelable obligations incurred up to the date of termination or cancellation, provided such expenses do not exceed the stated maximum amounts payable.
7. COMPUTER SOFTWARE: Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.
8. CONTRACT AMENDMENTS: Should either party, during the term of this Agreement, desire a change or amendment to the terms of this Agreement, such changes or amendments shall be proposed in writing to the other party, who will respond in writing as to whether the proposed changes/amendments are accepted or rejected. If accepted and after negotiations are concluded, the agreed upon changes shall be made through the State's official agreement amendment process.

**Exhibit D**  
Special Terms and Conditions

No amendment will be considered binding on either party until it is formally approved by both parties and the Department of General Services, if such approval is required.

9. APPROVAL: This agreement is not valid until signed by both parties and approved by the Department of General Services, if required.

10. FORCE MAJEURE:

Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but shall not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight embargo, public regulated utility, or governmental statutes or regulations superimposed after the fact. If a delay or failure in performance by the Contractor arises out of a default of its subcontractor, and if such default of its subcontractor, arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.