

Grant Agreement No. 460009836

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
DEPARTMENT OF WATER RESOURCES

CONTRACT BETWEEN THE STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES  
AND

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

FOR A FEASIBILITY STUDY GRANT FOR  
GOLDFIELDS HIGH GROUND FEASIBILITY STUDY

UNDER THE YUBA FEATHER FLOOD PROTECTION PROGRAM  
OF THE  
CALIFORNIA SAFE DRINKING WATER, CLEAN WATER,  
WATERSHED PROTECTION, AND FLOOD PROTECTION ACT

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DEPARTMENT OF WATER RESOURCES

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OF THE CALIFORNIA SAFE DRINKING WATER, CLEAN WATER,  
WATERSHED PROTECTION, AND FLOOD PROTECTION ACT

(Water Code Section 79068.6 et. seq.)

THIS CONTRACT, entered into by and between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State" and the Three Rivers Levee Improvement Authority, a public agency in the County of Yuba, State of California, duly organized, existing, and acting pursuant to the laws thereof, herein referred to as the "Local Public Entity", which parties do hereby agree as follows:

CONTRACT SPECIAL PROVISIONS

SECTION 1. PURPOSE OF GRANT

This grant is made by the State to the Local Public Entity to conduct a Feasibility Study to identify alternatives related to the feasibility of flood protection projects as described in Water Code Division 26, Chapter 5, Article 8, beginning with Section 79068, and regulations adopted in accordance with that article. A Feasibility Study may include an environmental impact report prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, or other environmental documentation approved by the State.

SECTION 2. INCORPORATION OF STANDARD CONDITIONS, AND PERFORMANCE REQUIREMENTS

This Contract incorporates Exhibit A, "Grant Contract Standard Conditions" (hereinafter referred to as "Standard Conditions") and Exhibit B, "Grant Contract Performance Requirements" (hereinafter referred to "Performance Requirements"). The Local Public Entity accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Contract, including all incorporated documents, and to fulfill all assurances, declarations, representations, and statements made by the Local Public Entity in the application, documents, amendments, and communications filed in support of its request for Yuba Feather Flood Protection Program financing.

SECTION 3. LOCAL PUBLIC ENTITY AGREEMENT

The Local Public Entity agrees to use the grant funds to complete a Feasibility Study in accordance with the Feasibility Study Work Plan, budget and schedule, copies of which are attached hereto as Exhibit C, and incorporated by reference, as it may be revised from time to time with the mutual consent of the parties.

SECTION 4. ESTIMATE OF FEASIBILITY STUDY COST

The reasonable cost of the Feasibility Study is estimated to be **\$2,647,800**, as shown in Exhibit C, as amended. Grant funds may be used only for such eligible Feasibility Study costs as defined in the Feasibility Study Work Plan, any revisions thereof, and Article A-1 of the Grant Contract Standard Conditions.

## SECTION 5. GRANT AMOUNT

Pursuant to the Yuba Feather Flood Protection Program of the California Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act, its applicable rules and regulations, and subject to the availability of funds, the State will grant to the Local Public Entity in accordance with the terms of this Contract an amount not to exceed **\$2,000,000**, as shown in Exhibit C. The remaining costs, if any, for the execution of the project will be met by other sources, as shown in Exhibit C.

## SECTION 6. ELIGIBLE COSTS

The Local Public Entity is entitled to request reimbursement for all reasonable and necessary costs as described under Article A-1 of the Standard Conditions and as defined in Exhibit C, the Work Plan. Costs incurred and requested for the development of hydraulic models will not be eligible for this contract. Approval of such eligible tasks shall be subject to review by the State.

## SECTION 7. REQUIREMENTS FOR DISBURSEMENT

The Local Public Entity shall meet all applicable conditions precedent to the disbursement of money under this Contract, including Basic Conditions Precedent under Article A-3 of the Standard Conditions. Failure by the Local Public Entity to comply with this requirement may, at the option of the State, result in termination of the Contract under Article A-26 of the Standard Conditions.

## SECTION 8. RELATIONSHIP OF PARTIES HERETO

The Local Public Entity, its contractors, subcontractors, and their respective agents and employees required for performing any work under this Contract shall act in an independent capacity and not as officers, employees or agents of the State.

The Local Public Entity is solely responsible for preparation of the Feasibility Study Report. Review or approval of plans, specifications, project documentation, bid documents or other documents by the State is solely for the purpose of proper administration of grant funds by the State and shall not be deemed to relieve or restrict the Local Public Entity's responsibility.

## SECTION 9. PERMITS, LICENSES, APPROVALS AND LEGAL OBLIGATIONS

The Local Public Entity shall be responsible for obtaining any and all permits, licenses, easements, rights-of-way and approvals required for performing any work under this Contract. The Local Public Entity shall be responsible for observing and complying with any applicable federal, state and local laws, rules or regulations affecting any such work, specifically those including, but not limited to, environmental, procurement and safety laws, rules, regulations and ordinances.

## SECTION 10. SUPERVISION OF WORK AND SUBMISSION OF PROGRESS REPORTS

The Local Public Entity shall submit quarterly progress reports on the status of the feasibility study to the Department of Water Resources, commencing three months from the effective date of this contract. The quarterly progress report shall provide a complete description of the work performed during the quarter including, but not limited to, legal, engineering, environmental and administrative tasks associated with the Feasibility Study; a detailed breakdown of costs incurred during the quarter; and a schedule showing actual progress in comparison to the planned schedule as set forth in the Work Plan. Timely submittal of these reports is a requirement for continued disbursement of grant funds under Section A-3 of Exhibit A.

The Local Public Entity shall give personal supervision to any work in progress that is required under this Contract or employ a competent representative, satisfactory to the State, with the authority to act for the Local Public Entity, who shall certify their approval of the resulting feasibility study report.

## SECTION 11. PROJECT OFFICIALS AND NOTICES

The State Project Manager is the Department of Water Resources Program Manager for the Yuba Feather Flood Protection Program.

The State Project Manager shall be the State's representative for administration of the Contract and shall have authority to make determinations and findings with respect to any controversy arising under or in connection with the interpretation, performance, or payment for work performed under the Contract. Disputes shall be resolved in accordance with Article A-20 of Exhibit A.

The Local Public Entity Project Director shall be Paul G. Brunner , Executive Director. The Local Public Entity Project Director shall be the Local Public Entity's representative for the administration of the Contract and shall have full authority to act on behalf of the Local Public Entity. All communications given to the Project Director shall be as binding as if given to the Local Public Entity.

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

Notices required to be given in writing to the Local Public Entity under this Contract shall be sent to:

Attention: Executive Director  
Three Rivers Levee Improvement Authority  
1114 Yuba Street, Suite 218  
Marysville, CA 95901

Notices required to be given in writing to the State under this Contract shall be sent to:

State of California  
Department of Water Resources  
Attention: Program Manager  
Yuba Feather Flood Protection Program  
Division of Flood Management  
3464 El Camino Ave, Suite 200  
Sacramento, California 95821

A change of address for delivery of notice may be made by either party by written notice of such change of address to the other party a minimum of seven days prior to the change.

All such notices shall be enclosed in a properly addressed, postage prepaid envelope and deposited in a United States Post Office for delivery by registered or certified mail.

IN WITNESS WHEREOF, the parties hereto have executed this Contract to be effective upon the date last signed below:

STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES

THREE RIVERS LEVEE  
IMPROVEMENT AUTHORITY

By \_\_\_\_\_  
Keith Swanson  
Chief, Division of Flood Management, DWR

By \_\_\_\_\_  
Paul G. Brunner  
Executive Director, TRLIA

← signed 9/7/12  
delivered to Fong  
9/7/12

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

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

Approved as to Legal Form  
And Sufficiency:

Approved as to Legal Form  
And Sufficiency:

← signed 9/6/12

\_\_\_\_\_  
Cathy Crothers  
Chief Counsel, DWR

\_\_\_\_\_  
Scott L. Shapiro  
General Counsel, TRLIA

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

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



EXHIBIT A

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
DEPARTMENT OF WATER RESOURCES

GRANT CONTRACT STANDARD CONDITIONS

ARTICLE A-1. DEFINITIONS

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

Contract: The Contract including all exhibits appended thereto.

Days: Calendar days unless otherwise expressly indicated.

Months: Calendar months unless otherwise expressly indicated.

Years: Calendar year unless otherwise expressly indicated.

Local Public Entity: Any political subdivision of the State of California, including but not limited to any county, city, city and county, district, joint powers agency, or council of governments within the geographic area specified in the Yuba Feather Flood Protection Program of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act.

Eligible Feasibility Study: All work for the purpose of identifying alternatives related to the feasibility of flood protection projects as described in Water Code Division 26, Chapter 5, Article 8, beginning with 79068, and regulations thereunder, approved by the State, and all addenda and changes to the foregoing documents approved by the State. A Feasibility Study may include an environmental impact report prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, or other environmental documentation.

Project: A proposed flood protection project as described in Water Code Section 79068.6, which is part of Article 8, Yuba Feather Flood Protection Program, of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (Costa-Machado Water Act of 2000).

Eligible Feasibility Study Costs: Reasonable and necessary costs include, but are not limited to, the engineering, preliminary design, legal and environmental studies and administrative costs associated with the Feasibility Study and Feasibility Study Report. Eligible costs may also include provision for field testing of concepts for later implementation, and those reasonable and necessary costs incurred by the applicant to prepare the application and to establish eligibility prior to or after the effective date of this Contract (but not before September 26, 2000). Eligible Feasibility Study Costs do not include final design, construction costs, operation and maintenance costs or costs for purchase of equipment

ARTICLE A-2. TERM OF CONTRACT

Subject to the provisions of Article A-3, this Contract shall be executed and commence upon signature by the State and the Local Public Entity, and shall remain in effect until the Feasibility Study Report is accepted in writing by the State, but no longer than five years from the execution of this contract.

ARTICLE A-3. BASIC CONDITIONS PRECEDENT

The State shall have no obligation to disburse money under this Contract unless and until the Local Public Entity has satisfied the State that the disbursement is in accordance with requirements of the Yuba Feather Flood Protection Program regulations, California Code of Regulations, Title 23, Division 2, Chapter 2.5.2, and the following conditions:

(a) The Local Public Entity provides a copy of a resolution adopted by its governing body accepting the grant, and designating a representative to execute this Contract and to sign requests for disbursement of State funds.

(b) The Local Public Entity has submitted all periodic progress reports due at the time of disbursement in accordance with Section 9 of this Contract.

(c) The Local Public Entity submits a written statement that it has obtained or will obtain prior to the need arising, all easements, rights-of-way and approvals as may be required by other state, local or federal agencies prior to commencement of the study, as specified in Section 8 of this Contract.

#### ARTICLE A-4. GRANT DISBURSEMENTS BY STATE

##### (a) Cost Statements

After all applicable Basic Conditions Precedent in Article A-3 are met, the State will disburse the whole or portions of the grant commitment to the Local Public Entity following receipt from the Local Public Entity of a detailed invoice of eligible feasibility study costs. This invoice shall identify the Work Plan task or tasks worked on, as well as the total hours charged by the Local Public Entity staff and all subcontractor costs. Requests for state funds shall be filed at least quarterly, but not more often than monthly.

After the Feasibility Study has been completed or terminated, the Local Public Entity shall furnish a final statement of incurred Eligible Feasibility Study Costs and disposition of funds disbursed.

##### (b) Disbursement

Following the review by the State of each statement of costs and relevant progress reports, the State will disburse to the Local Public Entity the amount approved, subject to annual appropriations and bond sales. Disbursements will be made in arrears at intervals not more often than monthly. Any and all money disbursed to the Local Public Entity under this Contract shall be used solely to pay Eligible Feasibility Study Costs.

##### (c) Withholding of Grant Disbursements by Local Public Entity

The Local Public Entity may retain up to ten percent (10%) from any contract or combination of contracts it enters into with third parties for preparation of all or part of the feasibility study until defined tasks and results are completed.

#### ARTICLE A-5. WITHHOLDING OF GRANT DISBURSEMENTS BY STATE

##### (a) Conditions for Withholding

The State may withhold up to ten percent (10%) of the funds requested by the Local Public Entity for reimbursement of eligible Feasibility Study Costs until defined tasks and results are completed as determined by the Project Manager in consultation with the Project Director.

##### (b) Additional Conditions for Withholding

If the State determines that the Feasibility Study is not being carried out substantially in accordance with the provisions of this Contract, or that the Local Public Entity has failed in any other respect to substantially comply with the provisions of this Contract, and if the Local Public Entity does not remedy any such failure to the State's satisfaction, the State may withhold from the Local Public Entity all or any portion of the grant commitment and take any other action that it deems necessary to protect its interests.

##### (c) Withholding Entire Grant Commitment

If the State notifies the Local Public Entity that it has decided to withhold all of the grant commitment from the Local Public Entity pursuant to Subdivision (b) of this Article, this Contract shall terminate upon receipt of such notice by the Local Public Entity and shall no longer be binding on either party.

##### (d) Withholding Balance of Grant Commitment

Where a portion of the grant commitment has been disbursed to the Local Public Entity and the State notifies the Local Public Entity that it has decided to withhold the balance of the grant commitment from the Local Public Entity pursuant to Subdivision (b) of this Article, the portion that has been disbursed shall thereafter be repaid immediately with interest as directed by the State. Refusal of the Local Public Entity to so repay may, at the option of the State, be considered a material breach of contract and may be treated as default under Article B-2 of Exhibit B.

#### ARTICLE A-6. FEASIBILITY STUDY SCHEDULE AND COMPLETION

(a) Feasibility Study Completion Date

The Local Public Entity shall expeditiously undertake the Feasibility Study in strict accordance with this Contract, and shall complete it no later than June 30, 2014. Said date for completion may be extended upon written request by the Local Public Entity and written approval by the State.

(b) Feasibility Study Report

The Local Public Entity shall prepare and submit to the State a Draft Final Feasibility Study Report at least 60 days before the scheduled completion date of the Final Feasibility Study Report. This report must contain the results of work performed pursuant to the tasks in the Feasibility Study Work Plan referenced in Section 1 of this Contract. It must provide a comprehensive analysis of the study's findings.

(c) Determination of Feasibility Study Completion

For the purposes of this Contract, the Feasibility Study shall be considered to be completed when a Final Feasibility Study Report is accepted by the State, or to be terminated when so determined by the State.

(d) Audit Requirement

Pursuant to Government Code Section 8546.7, the contract shall be subject to the examination and audit of the State, including the State Auditor, for a period of 3 years after final payment under this Contract with respect to all matters connected with the performance of the Contract, including, but not limited to, the cost of administering this Contract. All records of the Local Public Entity involving this contract, its contractors or subcontractors shall be retained for this purpose for that period.

#### ARTICLE A-7. ACCOUNTING AND DISPOSITION OF GRANT DISBURSEMENTS

(a) Separate Accounting of Grant Disbursements

The Local Public Entity shall account for the money disbursed pursuant to this Contract separately from all other Local Public Entity's funds. The Local Public Entity shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. The Local Public Entity shall keep complete and accurate records of all receipts and disbursements. The Local Public Entity shall require its contractors and subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by the State at any and all reasonable times.

(b) Disposition of Money Disbursed

All money disbursed pursuant to this Contract shall be deposited, administered, and accounted for pursuant to the provisions of law applicable to the Local Public Entity. Any unexpended funds that were disbursed to the Local Public Entity that were not needed to pay eligible costs shall be remitted to the State of California within sixty (60) days from completion of the feasibility study.

(c) Interim and Final Audits

The State reserves the right to conduct an audit at any time between the execution of this Contract and the completion of the Feasibility Study Report. After completion of the Feasibility Study, the State shall require the Local Public Entity to conduct a final audit, at the Local Public Entity's expense; such audit to be conducted by and a report prepared by an independent Certified Public Accountant, in compliance with generally accepted auditing standards

and government auditing standards. Upon completion, the report shall be submitted to the State for review and acceptance.

Failure or refusal by Local Public Entity to comply with this provision shall be considered a substantial failure to comply with this Contract, and the State may elect to pursue any remedies provided in Article A-5 or take any other action it deems necessary to protect its interests.

#### ARTICLE A-8. INSPECTIONS OF WORK BY STATE

The State shall have the right to inspect the work being performed at any and all reasonable times during the term of the Contract. This right shall extend to any subcontracts, and the Local Public Entity shall include provisions ensuring such access in all its contracts and subcontracts entered into pursuant to its Contract with the State.

#### ARTICLE A-9. NONDISCRIMINATION CLAUSE

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

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

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

The Local Public Entity shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under the Contract.

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

#### ARTICLE A-10. WORKERS' COMPENSATION CLAUSE

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

#### ARTICLE A-11. SUCCESSORS AND ASSIGNS

This Contract and all of its provisions shall apply to and bind the successors and assigns of the parties hereto. No assignment or transfer of this Contract or any part hereof, rights hereunder, or interest herein by the Local Public Entity shall be valid unless and until it is approved by the State and made subject to such reasonable terms and conditions as the State may impose.

ARTICLE A-12. STATE TO BE HELD HARMLESS

The Local Public Entity agrees to indemnify the State and its officers, agents, and employees against and to hold the same free and harmless from any and all claims, demands, damages, losses, costs, expenses, or liability due or incident to, either in whole or in part, and that directly or indirectly arise out of performance under this Contract.

ARTICLE A-13. REMEDIES NOT EXCLUSIVE

The use by either party of any remedy specified herein for the enforcement of this Contract is not exclusive and shall not deprive the party using such remedy of, or limits the application of, any other remedy provided by law

ARTICLE A-14. AMENDMENTS

This Contract may be amended in writing at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law. Requests by the Local Public Entity for amendments must be in writing stating the amendment request and the reason for the request.

ARTICLE A-15. OPINIONS AND DETERMINATIONS

Where the terms of this Contract provide for action to be based upon opinion, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

ARTICLE A-16. CONTRACTING OFFICER OF THE STATE

The contracting officer of the State shall be the Director of the Department of Water Resources of the State of California and his successors, or their duly authorized representatives. The contracting officer shall be responsible for all discretionary acts, opinions, judgments, approvals, reviews, and determinations required by the State under the terms of this Contract.

ARTICLE A-17. WAIVER OF RIGHTS

None of the provisions of this Contract shall be deemed waived unless expressly waived in writing. It is the intention of the parties hereto that from time to time either party may waive any of its rights under this Contract unless contrary to law. Any waiver by either party hereto of rights arising in connection with this Contract shall not be deemed to be a waiver with respect to any other rights or matters and such provisions shall continue in full force and effect.

ARTICLE A-18. NOTICES

All notices that are required either expressly or by implication to be given by one party to the other under this Contract shall be signed for the State by its contracting officer, or designee, and for the Local Public Entity by such officers, as from time to time, it may authorize in writing to so act. All such notices shall be deemed to have been given if delivered personally or if enclosed in a properly addressed postage-prepaid envelope and deposited in a United States Post Office for delivery by registered or certified mail.

ARTICLE A-19. INSPECTION OF BOOKS, RECORDS, AND REPORTS

During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this Contract or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Contract. Failure or refusal by Local Public Entity to comply with this provision shall be considered a substantial failure to comply with this Contract, and the State may withhold disbursements to the Local Public Entity or take any other action it deems necessary to protect its interests, as provided in Article B-2.

#### ARTICLE A-20. CLAIMS DISPUTE CLAUSE

Any claim that the Local Public Entity may have regarding the performance of this agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Director, Department of Water Resources within thirty (30) days of the Local Public Entity's knowledge of the claim. The State and the Local Public Entity shall then attempt to informally negotiate a resolution of the claim. If this attempt fails, the next step shall be resolution of the claim through non-binding mediation. Once a resolution is reached, its terms may be implemented through an amendment to this Contract.

#### ARTICLE A-21. DRUG-FREE WORKPLACE CERTIFICATION

By signing this contract, the Local Public Entity, its contractors and subcontractors hereby certify under penalty of perjury, under the laws of the State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and have or will provide a drug-free workplace by taking the following actions:

- (1) Publish a statement notifying employees, contractors and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors and subcontractors for violations, as required by Government Code Section 8355(a).
- (2) Establish a Drug-Free Awareness Program, as required by Government Code Section 8355(b), to inform employees, contractors and subcontractors about all of the following:
  - (a) The dangers of drug abuse in the workplace,
  - (b) The Local Public Entity's policy of maintaining a drug-free workplace,
  - (c) Any available counseling, rehabilitation and employee assistance program, and
  - (d) Penalties that may be imposed upon employees, contractors and subcontractors for drug abuse violations.
- (3) Provide, as required by Government Code 8355(c), that every employee, contractor and subcontractor who works under this Contract:
  - (a) Will receive a copy of the Local Public Entity's drug-free policy statement, and
  - (b) Will agree to abide by terms of the Local Public Entity's statement as a condition of employment or contract/subcontract award.
- (4) This Contract may be subject to suspension of payments or termination, or both, and the Local Public Entity may be subject to debarment if the State determines that:
  - (a) The Local Public Entity, its contractors or subcontractors have made a false certification, or
  - (b) The Local Public Entity, its contractors or subcontractors violates the certification by failing to carry out the requirements noted above.

#### ARTICLE A-22. AMERICANS WITH DISABILITIES ACT

By signing this contract, the Local Public Entity assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

#### ARTICLE A-23. CONFLICT OF INTEREST

##### (a) Current State Employees

- (1) No State officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency, unless the employment, activity or enterprise is required as a condition of regular State employment.

(2) No State officer or employee shall contract on his or her own behalf as an independent contractor with any State agency to provide goods or services.

(b) Former State Employees

- (1) For the two years period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency.
- (2) For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving State service.

ARTICLE A-24. NO THIRD PARTY RIGHTS

The parties to this Contract do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of this Contract, or of any duty, covenant, obligation or undertaking established herein.

ARTICLE A-25. SEVERABILITY

Should any portion of this Contract be determined to be void or unenforceable, such shall be severed from the whole and the Contract shall continue as modified.

ARTICLE A-26. TERMINATION

The State may terminate this Contract under Article B-2 of Exhibit B.

EXHIBIT B

GRANT CONTRACT PERFORMANCE REQUIREMENTS

ARTICLE B-1. PERFORMANCE AND ASSURANCES

The Local Public Entity agrees to faithfully and expeditiously perform or cause to be performed all Feasibility Study work as approved or as later amended and approved by the State under this Contract and to apply State funds received only to Eligible Feasibility Study Costs in accordance with applicable provisions of the law. In the event the State finds it necessary to enforce this provision or any right of power under this Contract in the manner provided by law, the Local Public Entity agrees to pay all costs incurred by the State including, but not limited to, reasonable attorneys' fees, legal expenses, and costs.

ARTICLE B-2. DEFAULT PROVISIONS

- (a) The Local Public Entity will be in default under this agreement if any of the following occur:
- (1) Substantial breach of this Contract, or any supplement or amendment to it;
  - (2) Making any false warranty, representation, or statement with respect to this Contract;
  - (3) Failure of the Local Public Entity to make any remittance required by this Contract.
  - (4) Prior to any claim of default, the State shall provide the Local Public Entity with notice of the potential default and a reasonable opportunity, of not less than forty-five days, to cure such potential default.
- (b) Should an event of default occur, the State may do any or all of the following:
- (1) Declare the grant be immediately repaid, with interest, which shall be equal to the State of California general obligation bond interest rate in effect at the time of the default;
  - (2) Terminate any obligation to make future payments to the Local Public Entity;
  - (3) Terminate the Contract; and
  - (4) Take any other action that the State deems necessary to protect its interests.
- (c) The Local Public Entity agrees that any remedy provided in this Contract is in addition to and not in derogation of any other legal or equitable remedy available to the State as a result of a breach of this Contract by the Local Public Entity, whether such breach occurs before or after completion of the Feasibility Study.
- (d) No waiver by the State of any breach or default will be a waiver of any breach or default occurring later. A waiver will be valid only if signed by the State or its authorized agent.



EXHIBIT C

WORK PLAN, BUDGET, AND SCHEDULE

ARTICLE C-1. WORK PLAN  
Original Study Work Plan

ARTICLE C-2. BUDGET  
Original Budget

ARTICLE C-3. SCHEDULE  
Original Schedule