

LOCAL PROJECT SPONSOR AGREEMENT
between
ABAG/SFEP and MARIN MUNICIPAL WATER DISTRICT

2014 Proposition 1 Integrated Regional Water Management Round 2 Implementation Grant
- Department of Water Resources -
- Agreement Number 4600015417-

Through this Local Project Sponsor Agreement by and between the Association of Bay Area Governments (ABAG), a joint powers authority existing under the laws of the State of California acting on behalf of the San Francisco Estuary Partnership (SFEP), a project sponsored by ABAG and Marin Municipal Water District, hereafter referred to as the Local Project Sponsor (LPS), the parties hereby agree as follows:

RECITALS

- A. Whereas, ABAG received a 2014 Proposition 1 Integrated Regional Water Management (IRWM) Program Grant from the State of California, Department of Water Resources (DWR) to help fund twelve (12) local projects located within the San Francisco Bay Area IRWM region (Work Plan);
- B. Whereas, on DATE, 2023, DWR and ABAG entered into Agreement No. 4600015417 (Grant Agreement) awarding to ABAG a grant for Thirty-Two Million, Two Hundred Fourteen Thousand and Four Hundred and Nine Dollars (\$32,214,479) in State funding (State Grant) to be expended over the allowable period which extends from May 6, 2023 through the completion of the DWR Work Plan, requiring Thirty One Million, Four Hundred Sixteen Thousand and Three Hundred Thirty Five Dollars (\$31,416,335) in matching funds that can include eligible expenses beginning in January 01, 2015;
- C. Whereas, subrecipients of the State Grant (Local Project Sponsors) and ABAG will be responsible for implementing their respective component parts of the Work Plan (such component parts of the Work Plan are referred to generically as 'Local Projects');
- D. Whereas, LPS is a subrecipient of the State Grant in the amount of Six Million Four Hundred Eight Thousand Dollars (\$6,408,000) and is responsible for ensuring completion of the Marin City/San Rafael Water Supply Resilience Project (Project) as part of the Work Plan and for matching funds in the amount of One Million Three Hundred Thousand Dollars (\$1,300,000) required under the Grant Agreement;
- E. WHEREAS, ABAG and the Metropolitan Transportation Commission (MTC) entered into a Contract for Services under which MTC provides administrative and program services to ABAG. Effective July 1, 2017, the staffs of ABAG and MTC were consolidated. MTC staff now serve both the Association of Bay Area Governments and the Metropolitan Transportation Commission. As such, all interactions between ABAG and The LPS contained within this Agreement, shall be conducted by MTC staff on behalf of ABAG.

NOW THEREFORE, based upon the foregoing recitals, ABAG and the LPS further agree as follows:

1.0 Applicable Documents. The following are attached:

1.1 **Attachment 1** - Project Description

1.2 **Attachment 2** - Insurance Requirements

1.3 **Attachment 3** - Grant Agreement including the following exhibits that were attached:

1.4 Exhibit A – Work Plan

1.5 Exhibit B – Budget

1.6 Exhibit C – Schedule

1.7 Exhibit D – Standard Conditions

1.8 Exhibit E – Authorizing Resolution

1.9 Exhibit F – Report Formats and Requirements

1.10 Exhibit G – Requirements for Data Submittal

1.11 Exhibit H – State Audit Document Requirements for the Grantee

1.12 Exhibit I – Local Project Sponsors and Project Location

1.13 Exhibit J – Appraisal Specification (Not Applicable)

1.14 Exhibit K – Information Needed for Escrow Processing and Closure (Not Applicable)

1.15 Exhibit L – Project Monitoring Plan Guidance

This Local Project Sponsor Agreement is comprised of this document (Base Document) and Attachments 1, 2, and 3 and is the complete and exclusive statement of understanding between ABAG and the LPS and supersedes any and all previous understandings or agreements, whether written or oral, and all communications between the parties relating to the subject matter of this Local Project Sponsor Agreement.

2.0 Term of Agreement. This Local Project Sponsor Agreement shall be effective as of SIGNED DATE (Effective Date) and continue until December 31, 2026 or until terminated by ABAG pursuant to the terms of this Local Project Sponsor Agreement, or until terminated by DWR pursuant to the terms of the Grant Agreement.

3.0 Project, Subaward and Matching Funds. Under the terms of the Grant Agreement, LPS will implement the Project as more particularly described in Attachment 1. ABAG/SFEP will disburse up to Six Million Four Hundred Eight Thousand Dollars (\$6,408,000) of the State Grant to LPS in accordance with the Grant Agreement. LPS will provide and document the matching funds referenced in Attachment 1 to this Local Project Sponsor Agreement in accordance with the Grant Agreement.

4.0 ABAG Obligations

- 4.1 ABAG will undertake and complete all administrative and grant management responsibilities relating solely to Grant Administration, in accordance with the Grant Agreement: Exhibit A Work Plan for ABAG.
- 4.2 ABAG shall disburse Grant funds as required or permitted by the Grant Agreement. Notwithstanding the foregoing, ABAG is not obligated to disburse any funds to LPS and is not obligated to disburse any other funds until such are authorized and disbursed from DWR to ABAG.
- 4.3 ABAG will promptly notify LPS of any notices given or actions taken by DWR if such notices or actions are likely to affect LPS's performance, duties, obligations or funding under this Local Project Sponsor Agreement, including but not limited to notices from DWR regarding LPS's invoices under section 12 of the Grant Agreement or alleged default by LPS under section 14 of the Grant Agreement. ABAG shall consult with the Local Project Sponsor Committee as defined below in carrying out ABAG's responsibilities.
- 4.4 Commencing with DWR's award of the State Grant on DATE and continuing until December 31, 2027 when the lengthiest projects covered by the Grant Agreement are expected to wind down and Grant closeout activities are expected to be completed, ABAG will undertake and complete all administrative and management responsibilities under the Grant Agreement that are not related solely to Local Projects. ABAG has incurred, and will continue to incur, numerous costs for administrative and management responsibilities under the Grant Agreement that are not related solely to Local Projects (the "Grant Administrative Costs"). The Grant allocates Eight Hundred Ninety Thousand Dollars (\$890,000) for Grant Administrative Costs.
- 4.5 The obligations of ABAG under section 6.2 shall survive the termination of this Local Project Sponsor Agreement.

5.0 LPS Obligations

- 5.1 LPS is, and at all times will continue to be, in full compliance with the terms and conditions of the Grant Agreement that are applicable to it as a subrecipient of the State Grant. LPS understands and agrees that for purposes of the foregoing, any requirements and responsibilities imposed upon ABAG as Grantee under the Grant Agreement are hereby passed-through to, and adopted by LPS, as obligations of LPS, excepting only ABAG's obligations as defined in subsections 4.1 – 4.3 of this Local Project Sponsor Agreement. Further, LPS acknowledges and agrees to comply with any requirements directly imposed on LPS as a Local Project Sponsor under the Grant Agreement.
- 5.2 LPS agrees to fund the difference between the Total Project Cost and Grant Amount specified in Attachment 1 of this Local Project Sponsor Agreement. Cost share consists of Funding Match and Additional Cost Share as documented in Attachment 1. LPS is required to maintain all financial records associated with the total project cost for inclusion in the final project report.
- 5.3 Pursuant to DWR requirements, LPS may invoice ABAG for grant share reimbursement incurred after the grant award date of May 6, 2023. Match costs can include project related costs incurred after January 1, 2015. Required match costs related to a specific task must be documented to the

same level of detail as costs for a grant invoice. Required match costs must be approved by DWR prior to LPS invoicing the grant for payment for that specific task. Additional cost share will be documented by LPS in the Final Project Report.

- 5.4 LPS hereby assumes responsibility for submitting Post-Performance Reports as required under Section 14.E of the Grant Agreement. Reports will be sent to ABAG for submittal to DWR within sixty (60) calendar days after the first year of project operation/completion and annually for a total of three (3) years following project completion.
- 5.5 LPS hereby assumes responsibility for the following as required under section 15 of the Grant Agreement: (a) operating and maintaining facilities and structures, (b) all costs for the operation and maintenance of the facilities and structures, and (c) performing as required under (a) and (b) for the period required.
- 5.6 The obligations of LPS under sections 5.3, 5.4 and 6.1 shall survive the termination of this Local Project Sponsor Agreement.
- 5.7 LPS shall not cause ABAG to be in violation of the Grant Agreement, whether by act or omission.
- 5.8 LPS shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, and directives, now existing and as such may change from time-to-time. Any such laws, rules, regulations, ordinances, and directives required thereby to be included in this Local Project Sponsor Agreement are incorporated herein by reference.
- 5.9 LPS shall, at its own expense, obtain and maintain in effect at all times for the duration of this Agreement the types of insurance and financial security listed in Attachment 2, Insurance Requirements, attached hereto and incorporated herein, against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement. All policies will be issued by insurers acceptable to ABAG, generally with a Best's Rating of A- or better with a Financial Size Category of VII or better, or an A rating from a comparable rating service.
- 5.10 LPS further acknowledges and affirms that every other Local Project Sponsor is a third party beneficiary of this Local Project Sponsor Agreement and LPS is a third party beneficiary of every other Local Project Sponsor Agreement.
- 6.0 Indemnification
- 6.1 LPS shall indemnify, defend, and hold harmless the other Local Project Sponsors, the Metropolitan Transportation Commission (MTC) and ABAG and their respective members, elected and appointed officers, employees, and agents from and against any and all liability resulting from LPS's act(s) and/or omission(s) arising from and/or relating to the Project, and as such would be imposed in the absence of Government Code section 895.2.
- 6.2 Without limiting the scope of subsection 6.1, such liability includes but is not limited to the following: any funding disallowance; audits; demands; claims; actions; liabilities; damages; fines; fees, costs, and expenses, including attorney, auditor, and/or expert witness fees.

7.0 Termination

- 7.1 Upon termination of the Grant Agreement, this Local Project Sponsor Agreement shall terminate effective the same date as the Grant Agreement and in accordance with the terms and conditions for the termination of the Grant Agreement.
- 7.2 ABAG may terminate this Local Project Sponsor Agreement upon the occurrence of all of the following: (a) receipt prior written notice from DWR of a default under Section 12 of the Grant Agreement caused in whole or in part by LPS that provides at least ten (10) days to cure said default, (b) ABAG's prompt transmittal of said notice to LPS, (c) LPS's failure to cure the default within the time prescribed by DWR and (d) DWR takes any of the actions described in subsections 12.H – K of the Grant Agreement. Upon termination of this Local Project Sponsor Agreement: (1) the rights and duties of the parties with respect to the Work Plan, any portion of the Subaward Amount and any asset acquired with proceeds of the Subaward Amount shall be determined in accordance with the provisions of the Grant Agreement and this Local Project Sponsor Agreement and (2) LPS shall pay all costs incurred by the State in enforcing section 12 of the Grant Agreement including, but not limited to, reasonable attorneys' fees, legal expenses, and costs.
- 7.3 LPS may request termination of this Local Project Sponsor Agreement by submitting to ABAG a written notice stating the reasons for termination and all progress reports summarizing accomplishments to the date of the notice. Upon receipt of the notice, ABAG shall promptly transmit the notice to DWR and request amendment of the Grant Agreement pursuant to Section D.3 of Exhibit D to the Grant Agreement to conform the Grant Agreement to LPS's written notice. ABAG shall promptly notify LPS of any communication(s) or response(s) from DWR. LPS and ABAG will coordinate on any additional actions requested by DWR to effect the requested termination of this Local Project Sponsor Agreement.

8.0 Notices and Administrative Contacts

- 8.1 All notices or notifications under this Local Project Sponsor Agreement shall be in writing addressed to the persons set forth in this section.
- 8.2 All notices or notifications to ABAG shall be sent to:

Natasha Daniels
San Francisco Estuary Partnership
375 Beale Street, Suite 700
San Francisco, California 94105
(415) 778-6687
Email: natasha.daniels@sfestuary.org

- 8.3 All notices or notifications to LPS shall be sent to:

Shaun Horne
Marin Municipal Water District
220 Nellen Avenue

Corte Madera, CA 94925
415-945-1190
Email: shorne@marinwater.org

- 9.0 Amendments and Changes. This Local Project Sponsor Agreement may be changed only by a written amendment duly signed by ABAG and LPS.
- 10.0 LPS shall not assign its rights or delegate its duties under this Local Project Sponsor Agreement, provided that the parties recognize that the PROJECT will be completed by the under a grant from the LPS. Any attempted assignment or delegation shall be null and void, and constitute a material breach of this Local Project Sponsor Agreement.
- 11.0 Governing Law and Venue. This Local Project Sponsor Agreement shall be governed by, and construed in accordance with, the substantive and procedural laws of the State of California. LPS further agrees and consents that the venue of any action brought between LPS and ABAG shall be exclusively in the County of San Francisco.
- 12.0 Validity and Severability. If any provision of this Local Project Sponsor Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Local Project Sponsor Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.
- 13.0 No Waiver. No waiver by either party of any event of breach and/or breach of any provision of this Local Project Sponsor Agreement shall constitute a waiver of any other event of breach and/or breach. Either party's non-enforcement at any time, or from time to time, of any provision of this Local Project Sponsor Agreement shall not be construed as a waiver thereof.
- 14.0 Priority of Documents. The provisions of the Grant Agreement shall prevail over provisions of this Local Project Sponsor Agreement.

END OF BASE DOCUMENT
SIGNATURE PAGE TO FOLLOW

**2014 Proposition 1 Integrated Regional Water Management Implementation Grant Round 2
- Department of Water Resources -
Local Project Sponsor Agreement**

* * * * *

AUTHORIZED SIGNATURES

IN WITNESS WHEREOF, Marin Municipal Water District and ABAG have duly executed this Agreement, or caused it to be duly executed on its behalf.

MARIN MUNICIPAL WATER DISTRICT

Bennett Horenstein
General Manager

Secondary Signature if needed
Title

Date _____

Date _____

Approved as to Form:

ASSOCIATION OF BAY AREA GOVERNMENTS

Andrew B. Fremier
Metropolitan Transportation Commission Executive Director,
Acting pursuant to the Contract for Services dated May 30, 2017.

Date _____

ATTACHMENT 1: PROJECT DESCRIPTION

WORK PLAN

PROJECT 5: Marin City/San Rafael Water Supply Resilience Project

IMPLEMENTING AGENCY: Marin Municipal Water District

PROJECT DESCRIPTION: The project will replace a total of approximately 3.5 miles of water mains and 272 District-owned service laterals within the disadvantaged communities of Marin City and the Canal district of San Rafael. The project will also conduct approximately 320 private lateral investigations in Marin City along the new pipeline to identify systems that are past their useful life or manufactured with materials known to cause health risks for future replacement. These improvements will allow for the reliable delivery of 1,129 acre-feet per year of water supply to the communities and will increase water conservation by decreasing the amount of leaks in the system. The project will also conduct outreach to the affected communities using water ambassadors ahead of and during construction to ensure that the community understands the benefits to the water infrastructure replacement. The community outreach will entail general drinking water education to help build community trust in local water quality to reduce the use of high-priced bottled water.

Budget Category (a): Project Administration

Task 1: Project Management

Manage Grant Agreement including compliance with grant requirements, and preparation and submission of supporting grant documents and coordination with IRWM regional manager. Prepare invoices including relevant supporting documentation for submittal to DWR via the Grantee. This task also includes administrative responsibilities associated with the project such as coordinating with partnering agencies and managing consultants/contractors.

Deliverables:

- Invoices and associated backup documentation

Task 2: Reporting

Prepare progress reports detailing work completed during reporting period as outlined in Exhibit F of this Agreement. Submit reports to DWR.

Prepare Project Completion Report and submit to DWR no later than 90 days after project completion for DWR Project Manager's comment and review. The report shall be prepared and presented in accordance with guidance as outlined in Exhibit F.

Deliverables:

- Quarterly Project Progress Reports
- Project Completion Report
- Documentation (e.g., photo) of "Acknowledgment of Credit & Signage" per Standard Condition D.2

Budget Category (b): Land Purchase/Easement

Task 3: Land Purchase

No land purchase or easement acquisition is required for this project.

Deliverables: N/A

Budget Category (c): Planning/Design/Engineering/Environmental Documentation

Task 4: Feasibility Studies

Not applicable.

Deliverables: N/A

Task 5: CEQA Documentation

Complete environmental review pursuant to CEQA. Prepare all necessary environmental documentation. Prepare letter stating no legal challenges (or addressing legal challenges).

Deliverables:

- All completed CEQA documents as required
- Legal Challenges Letter

Task 6: Permitting

The following permits are anticipated to be acquired for this project: encroachment permits from the County of Marin for the Marin City community and the City of San Rafael for the Canal community.

Deliverables:

- Permits as required

Task 7: Design

Complete design of replacement of existing infrastructure, including drafting, potholing, and coordination with local jurisdictions and fire departments.

Deliverables:

- Basis of Design Report
- 100% Design Plans and Specifications

Task 8: Project Monitoring Plan

Develop and submit a Project Monitoring Plan per Paragraph 16 for DWR's review and approval.

Deliverables:

- Project Monitoring Plan

Budget Category (d): Construction/Implementation

Task 9: Contract Services

This task must comply with the Standard Condition D.11 – Competitive Bidding and Procurements. Activities necessary (as applicable) to secure a contractor and award the contract, including: develop bid documents, prepare advertisement and contract documents for construction contract bidding, conduct pre-bid meeting, bid opening and evaluation, selection of the contractor, award of contract, and issuance of notice to proceed. Marin Municipal Water District will perform activities necessary to secure a contractor and award the contract in compliance with all laws, regulations, and their respective internal protocols. Activities include: develop bid documents, prepare advertisement and contract documents for construction contract bidding, conduct pre-bid meeting, bid opening and evaluation, selection of the contractor, award of contract, and issuance of notice to proceed.

Deliverables:

- Bid Documents
- Proof of Advertisement
- Award of Contract
- Notice to Proceed

Task 10: Construction Administration

This task includes managing contractor submittal review, answering requests for information, and issuing work directives. A full-time engineering construction observer will be on site for the duration of the project. Construction observer duties include documenting of pre-construction conditions, daily construction diary, preparing change orders, addressing questions of contractors on site, reviewing/ updating project schedule, reviewing contractor log submittals and pay requests, forecasting cash flow, notifying contractor if work is not acceptable. Upon completing the project, the DWR Certificate of Project Completion and record drawings will be provided to DWR.

Deliverables:

- DWR Certificate of Project Completion
- Record Drawings

Task 11: Construction

Construction activities are outlined below.

11(a): Site preparation will include potholing, Stormwater Pollution Prevention Plan, and traffic control.

11(b): Construction includes replacement of approximately 2.9 miles of cast iron pipe in Marin City, along with 197 associated laterals, and 0.6 miles of asbestos-concrete pipe in San Rafael, as well as 75 associated laterals.

11(c): Conduct approximately 320 private lateral investigations along the new pipeline in Marin City, which means that the portion of the service lateral pipes from the water meter to the building that is owned by the property owner, will be assessed for material type, condition, and location.

Additionally, community water ambassadors will conduct direct outreach at community events and assist with outreach relating to the private lateral investigations and pipeline replacement projects ahead of and during construction.

Deliverables:

- Photographic Documentation of Progress
- Lateral Assessments Results Data
- Copies of outreach materials

BUDGET

	BUDGET CATEGORY	Grant Amount	Required Cost Share: Non-State Fund Source*	Other Cost Share	Total Cost
(a)	Project Administration	\$0	\$0	\$0	\$0
(b)	Land Purchase / Easement	\$0	\$0	\$0	\$0
(c)	Planning / Design / Engineering / Environmental Documentation	\$200,000	\$0	\$0	\$200,000
(d)	Construction / Implementation	\$6,208,000	\$1,300,000	\$0	\$7,508,000
	TOTAL COSTS	\$6,408,000	\$1,300,000	\$0	\$7,708,000

SCHEDULE

	BUDGET CATEGORY	Start Date	End Date
a	Project Administration	1/1/2023	12/31/2026
b	Land Purchase / Easement	N/A	N/A
c	Planning / Design / Engineering / Environmental Documentation	3/1/2023	12/31/2025*
d	Construction / Implementation	5/15/2023	9/30/2026

ATTACHMENT 2: INSURANCE REQUIREMENTS

PART 1

A. Minimum Coverages. The insurance requirements specified in this section shall cover Recipient's own liability and the liability arising out of work or services performed under this Agreement by any subconsultants, subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that Recipient authorizes to work under this Agreement (hereinafter referred to as "Agents.") Recipient shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement.

Recipient is also required to assess the risks associated with work to be performed by Agents under subcontract and to include in every subcontract the requirement that the Agent maintain adequate insurance coverage with appropriate limits and endorsements to cover such risks. To the extent that an Agent does not procure and maintain such insurance coverage, Recipient shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling Recipient's indemnity obligation as to itself or any of its Agents in the absence of coverage.

In the event Recipient or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that Recipient's insurance be primary without right of contribution from ABAG. Prior to beginning work under this contract, Recipient shall provide ABAG with satisfactory evidence of compliance with the insurance requirements of this section.

The insurance listed hereunder shall be considered minimum requirements and any and all insurance proceeds in excess of the requirements shall be made available to ABAG. If the Recipient maintains broader coverage and/or higher limits than the minimum limits shown hereunder, ABAG shall be entitled to the broader coverage and/or higher limits maintained by the Recipient.

1. Workers' Compensation Insurance with Statutory limits, and Employer's Liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of Recipient's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of ABAG. Such Workers Compensation & Employers Liability may be waived, if and only for as long as Recipient is a sole proprietor or a corporation with stock 100% owned by officers with no employees.

2. Commercial General Liability Insurance for Bodily Injury and Property Damage liability, covering the premises and operations, and products and completed operations of Recipient and Recipient's officers, and employees and with limits of liability which shall not be less than \$1,000,000 per occurrence with a general aggregate liability of not less than \$2,000,000, a products/completed

operations aggregate liability limit of not less than \$2,000,000 and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation or “Waiver of Transfer of Rights of Recovery Against Others to Us” provision included in the policy language or by endorsement in favor of ABAG.

Products and completed operations insurance shall be maintained for three (3) years following termination of this Agreement.

ABAG and those entities listed in Part 2 of this Attachment E (if any), and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds for ongoing and completed operations. Such insurance shall be primary and non-contributory, and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from Recipient’s operations.

3. Business Automobile Insurance for all automobiles owned (if any), used or maintained by Recipient and Recipient’s officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.

4. Excess or Umbrella Insurance in the amount of \$1,000,000 providing excess limits over Employer’s Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.

5. Errors and Omissions Professional Liability Insurance for errors and omissions and the resulting damages, including, but not limited to, economic loss to MTC and having minimum limits of \$1000,000 per claim.

The policy shall provide coverage for all work performed by CONSULTANT and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of the CONSULTANT. No contract or agreement between CONSULTANT and any subcontractor/consultant shall relieve CONSULTANT of the responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by CONSULTANT and any subcontractor/consultant working on behalf of CONSULTANT on the project.

B. Acceptable Insurers. All policies will be issued by insurers acceptable to ABAG, generally with a Best’s Rating of A- or better with a Financial Size Category of VII or better, or an A rating from a comparable rating service.

C. Self-Insurance. Recipient’s obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to ABAG.

D. Deductibles and Retentions. Recipient shall be responsible for payment of any deductible or retention on Recipient’s policies without right of contribution from ABAG. Deductible and retention

provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that ABAG seeks coverage as an additional insured under any Recipient insurance policy that contains a deductible or self-insured retention, Recipient shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of Recipient, subconsultant, subcontractor, or any of their employees, officers or directors, even if Recipient or subconsultant is not a named defendant in the lawsuit.

E. Claims Made Coverage. If any insurance specified above is written on a “Claims-Made” (rather than an “occurrence”) basis, then in addition to the coverage requirements above, RECIPIENT shall:

- (1) Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement;
- (2) Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and
- (3) If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, Recipient shall purchase “extended reporting” coverage for a minimum of three (3) years after completion of the work.

F. Failure to Maintain Insurance. All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of Recipient’s personnel, subcontractors, and equipment have been removed from ABAG’s property, and the work or services have been formally accepted. Recipient must notify ABAG if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

G. Certificates of Insurance. Prior to commencement of any work hereunder, Recipient shall deliver to Ebix, ABAG’s authorized insurance consultant, insurance documentation (including Certificates of Liability Insurance, Evidences of Property Insurance, endorsements, etc.) verifying the aforementioned coverages. Such evidence of insurance shall make reference to all provisions and endorsements referred to above and shall be signed by the authorized representative of the Insurance Company shown on the insurance documentation. The Project name shall be clearly stated on the face of each Certificate of Liability Insurance and/or Evidence of Property Insurance.

Recipient shall submit certificates of insurance to:

**Association of Bay Area Governments
Insurance Compliance
P.O. Box 100085-M8
Duluth, GA 30096
or**

Email to MTC@Ebix.com
or
Fax to 1-888-617-2309

ABAG reserves the right to require copies of all required policy declarations pages or insurance policies, including endorsements, required by these specifications, at any time.

H. Disclaimer. The foregoing requirements as to the types and limits of insurance coverage to be maintained by Recipient are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Recipient pursuant hereto, including, but not limited to, liability assumed pursuant to Section 9 of this Agreement.

PART 2

The following entities are to be named as Additional Insureds under applicable sections of this Attachment E and as ABAG Indemnified Parties, pursuant to Section 9 of the Agreement.

Metropolitan Transportation Commission (MTC)
Association of Bay Area Governments (ABAG)
State of California, Department of Water Resources (DWR)

ATTACHMENT 3: GRANT DOCUMENT

[insert when executed]