



Meeting Date: 12/19/2006

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Tamara Sexton Agenda Item No. I-7  
 Reviewed By: City Manager [Signature] City Attorney [Signature] Finance [Signature] Public Works [Signature]

**DATE:** December 12, 2006

**TO:** City Council

**FROM:** Anthony Emmert, Water Resources Manager [Signature]  
Public Works Department, Water Resources Division

**SUBJECT:** Water Recycling Grant Program Grant Agreement Between the State Water Resources Control Board and the City of Oxnard

**RECOMMENDATION**

That City Council: (1) approve and authorize the City Manager or designee to execute the Water Recycling Grant Program Agreement Between the State Water Resources Control Board ("SWRCB") and the City of Oxnard, and (2) recognize the revenue and approve the appropriation in the amount of \$75,000 from the SWRCB to the Groundwater Recovery Enhancement and Treatment (GREAT) Recycled Water Distribution Project for the Water Recycling Facilities Planning Grant Program.

**DISCUSSION**

On September 16, 2003, the City Council adopted Resolution No. 12,486 authorizing the Water Superintendent to submit a grant application for \$75,000 to SWRCB under the Water Recycling Facilities Grant Program. The grant application submitted was for the study of municipal and industrial water recycling facilities projects.

The Recycled Water Facilities Planning Study will focus on the City's potential opportunities to serve recycled water produced by the Advanced Water Purification Facility including industrial processes and landscape irrigation. The infrastructure needs to convey, store and deliver recycled water to the potentials users will be included in the Study.

**FINANCIAL IMPACT**

The special budget appropriation will recognize revenue and appropriate \$75,000 from the SWRCB to the GREAT Recycled Water Distribution Project 066003. There are sufficient appropriations available in the GREAT Recycled Water Distribution Project 066003 - 603-6542-821-8606 for the matching City funds.

Water Recycling Grant Program Grant Agreement Between the State Water Resources Control Board and the City of Oxnard

December 11, 2006

Page 2

TDS:tds

Attachment #1 - Instructions on Signing the Grant Agreement

#2 - Water Recycling Grant Program Grant Agreement Between the State Water Resources Control Board and the City of Oxnard

#3 - Special Budget Appropriation

**000042**



# State Water Resources Control Board



Linda S. Adams  
Secretary for  
Environmental Protection

Division of Financial Assistance  
1001 I Street, Sacramento, California 95814  
P.O. Box 944212, Sacramento, California 94244-2120  
(916) 341-5700 ♦ FAX (916) 341-5707 ♦ <http://waterboards.ca.gov>

Arnold Schwarzenegger  
Governor

October 19, 2006

**DO NOT MODIFY ENCLOSED GRANT SETS**

Ken Ortega, Project Director  
City of Oxnard  
251 South Hayes Avenue  
Oxnard, CA 93030

Dear Grantee:

Enclosed are four (4) original sets of your Grant Agreement. Page two (2) of each Grant Agreement set must be signed in BLUE INK by the person authorized to sign on behalf of your agency.

It is imperative that all four (4) sets, bearing an original signature on each, be returned to me within ten (10) working days from the date of this letter, along with the following document(s) checked below:

- |                                     |                                     |                          |                   |
|-------------------------------------|-------------------------------------|--------------------------|-------------------|
| <input checked="" type="checkbox"/> | Project Director Certification Form | <input type="checkbox"/> | Agency Resolution |
| <input type="checkbox"/>            | Delegation of Authority Letter      | <input type="checkbox"/> | Other             |

**PLEASE NOTE: VERY IMPORTANT TO SUCCESSFUL GRANT COMPLETION**

*Timely return of the signed four (4) Grant Agreement sets is essential. Project funding may be jeopardized by not responding to this letter in a timely manner. If you cannot comply with the ten (10) day turnaround, you must notify us by e-mail immediately with the reason for the delay and an approximate date when you will be able to comply. Please be aware failure to return this agreement or notify us within the specified time, could result in withdrawal of this grant award. Your immediate attention and compliance with the request(s) in this letter is greatly appreciated.*

Grant documents may be sent by  
Overnight or Certified mail to:

OR

by U. S. Postal Service to:

Eric Santos  
Division of Financial Assistance  
1001 I Street, 16<sup>th</sup> Floor  
Sacramento, CA 95814

Eric Santos  
Division of Financial Assistance  
P. O. Box 944212  
Sacramento, California 94244-2120

Upon execution, we will provide you an original signed copy of the Grant Agreement. If you have any questions, please feel free to contact me by phone at (916) 341-5378 or by e-mail at [esantos@waterboards.ca.gov](mailto:esantos@waterboards.ca.gov).

Sincerely,

Eric Santos  
Grants & Contracts Administration Unit

Enclosures

cc: Danielle Siebal, Project Manager





# State Water Resources Control Board

Alan C. Lloyd, Ph.D.  
Agency Secretary

Division of Financial Assistance  
1001 I Street, Sacramento, California 95814 • (916) 341-5700  
Mailing Address: P.O. Box 944212 • Sacramento, California 94244-2120  
FAX (916) 341-5707 • <http://www.waterboards.ca.gov>



Arnold Schwarzenegger  
Governor

## PROJECT DIRECTOR CERTIFICATION

Grant Recipient: City of Oxnard  
 Project Name: Municipal and Industrial Recycled Water Distribution System Study  
 Project Director: Ken Ortega  
 Project Identification No. (PIN): 3407-010 Grant Agreement No.: 06-703-550-0  
 Program: Proposition 13  40  50  319(h)

I certify that I am the assigned Project Director for this Project and I understand the requirements of the Program checked above and the responsibilities of the Project Director.

AND

(Check only the boxes to which you are certifying. Sign and submit this form to the Program Analyst.)

1) I am a paid employee of the Grant Recipient.

OR

2) I am a volunteer of the Grant Recipient and certify that: (you must be able to check off EACH box below):

2a) I am a member of the Recipient's Organization; and

2b) I will derive no personal monetary gain or other benefit; and

2c) I am not acting as a subcontractor or performing work on the Project.

Signature

12/11/06  
Date



PROPOSITION 13  
WATER RECYCLING GRANT PROGRAM  
GRANT AGREEMENT  
BETWEEN THE  
STATE WATER RESOURCES CONTROL BOARD  
AND

City of Oxnard

Municipal and Industrial Recycled Water Distribution System Study

AGREEMENT NO. 06-703-550-0

This Grant Agreement is made between the State of California acting by and through the State Water Resources Control Board, hereafter referred to as the "SWRCB", and City of Oxnard, a city, hereafter referred to as the "Grantee".

WHEREAS:

1. The following provision(s) authorize the SWRCB to enter into this type of Grant Agreement:  
Water Code: § 79140 (Proposition 13 Water Recycling)
2. The Grantee has applied for a grant and has been determined by the SWRCB to be eligible for a grant pursuant to applicable State laws and regulations; and
3. The SWRCB, pursuant to the Preliminary Funding Commitment, Division of Financial Assistance (DFA) Item No. 2006-57, approved on August 4, 2006, and SWRCB Delegation Resolution No. 2003-0042, approved on June 18, 2003, has authorized grant funding for the Project hereafter described.

NOW, THEREFORE, it is agreed as follows:

1. The Project generally consists of a Feasibility Study Planning Report that will evaluate the economic and environmental factors for each of the potential recycled water uses identified in the study, for the benefit of the Grantee.
2. The maximum grant amount is seventy five thousand dollars and no cents (\$75,000.00).
3. The Project Representatives during the term of this Agreement will be:

State Water Resources Control Board	Grantee: City of Oxnard
Name: Claudia Villacorta, Grant Manager	Name: Ken Ortega, Authorized Representative ("Project Director")
Address: 1001 I Street, 16 <sup>th</sup> Floor Sacramento, CA 95814	Address: 251 South Hayes Avenue Oxnard, CA 93030
Phone: (916) 341-5735	Phone: (805) 385-8139
Fax: (916) 341-5707	Fax:
e-mail: cvillacorta@waterboards.ca.gov	e-mail: ken.ortega@ci.oxnard.ca.us

Direct all inquiries to:

State Water Resources Control Board	Grantee: City of Oxnard
Section/Unit: Division of Financial Assistance	Section/Unit:
Attention: Danielle Siebal, Project Manager	Attention: Anthony Emmert, Grant Contact
Address: 1001 I Street, 16 <sup>th</sup> Floor, Sacramento, CA 95814	Address: 251 South Hayes Avenue Oxnard, CA 93030
Phone: (916) 327-4838	Phone: (805) 385-8111
Fax: (916) 341-5707	Fax: (805) 385-8137
e-mail: dsiebal@waterboards.ca.gov	e-mail: anthony.emmert@ci.oxnard.ca.us

The SWRCB's Grant Manager, or designee, may perform any and all acts that could be performed by the SWRCB Project Manager under this Agreement. All communications relative to this Agreement shall be given to the SWRCB Project Manager.

All communications given to the Grant Contact shall be as binding as if given to the Grantee.

Each party may change its Project Representative upon written notice to the other party. The Grantee's Authorized Representative shall be the representative authorized to execute this Agreement and any subsequent amendments.

4. Incorporation of Documents. This Agreement incorporates the following documents:
  - 4.1 Exhibit A, Scope of Work;
  - 4.2 Exhibit B, Invoicing, Budget Detail and Reporting Provisions;
  - 4.3 Exhibit C, SWRCB General Conditions; and
  - 4.4 Exhibit D, Special Conditions.
5. The Grantee accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and commitments made by the Grantee in its application, accompanying documents, and communications filed in support of its request for grant funding. The Grantee shall comply with and require its contractors and subcontractors to comply with all applicable laws, policies and regulations.
6. The term of the Agreement shall begin on August 4, 2006 and continue through Project completion plus three (3) years unless otherwise terminated or amended as provided in the Agreement. Project completion shall be the date for submittal of final facilities planning report specified in Preliminary Funding Commitment, but in no case shall be later than January 31, 2008.

IN WITNESS THEREOF, the parties have executed this Agreement on the dates set forth below.

By: \_\_\_\_\_  
Grantee Signature

By: \_\_\_\_\_  
Esteban Almanza, Deputy Director  
Division of Administrative Services  
State Water Resources Control Board

\_\_\_\_\_  
Grantee Typed/Printed Name

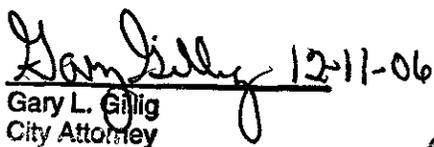
\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

Reviewed by:  
Office of Chief Counsel  
Date:

\_\_\_\_\_  
Date

**APPROVED AS TO FORM:**

  
Gary L. Gilig  
City Attorney

**000046**

ATTACHMENT NO. 2  
PAGE 2 OF 12

EXHIBIT A – SCOPE OF WORK

1. Work To Be Performed by Grantee:

All work performed under this Grant Agreement shall be performed in accordance with the "Plan of Study Approval" letter dated July 31, 2006 and any amendments thereto, and the SWRCB "Preliminary Funding Commitment", DFA Item No. 2006-57.

If the Final Facilities Planning Report is not submitted to the SWRCB by January 31, 2007, this Grant Agreement shall immediately and automatically terminate, unless a time extension of up to twelve (12) months is approved.

Documents referenced above are hereby incorporated into this Grant Agreement in their entirety.

EXHIBIT B – DISBURSEMENT, BUDGET DETAIL AND REPORTING PROVISIONS

1. Request for Disbursement

- 1.1 An original Disbursement Request (Form 260) along with an original Grantee invoice shall be submitted to the SWRCB's Disbursement Coordinator. The Grantee may submit disbursement requests initially after this Agreement has been executed and subsequently not more frequently than every thirty (30) calendar days. Also required for disbursement of funds for Construction projects is a Construction Spreadsheet (Form 259). All disbursement forms and supporting documentation must be completed in accordance with the supplied instructions. All documents must have original signatures and dates (in ink) by Grantee's Authorized Representative, designee, or Project Director. Final disbursement requests shall be clearly marked 'FINAL' and submitted NO LATER THAN February 28, 2007.

The address for submittal is:

SWRCB, Division of Financial Assistance  
Attention: Disbursement Coordinator  
16<sup>th</sup> Floor, Administration Unit  
P. O. Box 944212  
Sacramento, CA 94244-2120

Street Address: 1001 I Street, 16<sup>th</sup> Floor  
Sacramento, CA 95814

- 1.2 Payment will be made only after receipt of a complete, adequately supported, properly documented and accurately addressed Form 260. Forms received by the SWRCB that are not consistent with the approved format will cause delay in disbursement. In the event of a delayed disbursement, the SWRCB's Disbursement Coordinator will notify the Grantee. Full payment will not be made until the issue(s) for the delay are resolved. Failure to use the address exactly as provided above may result in return of the invoice or payment request to the Grantee. Payment shall be deemed complete upon deposit of the payment, properly addressed, postage prepaid, in the United States mail. The SWRCB's Grant Manager must approve all payments.
- 1.3 Notwithstanding any other provision of this Agreement, no disbursement shall be required at any time or in any manner which is in violation of or in conflict with Federal or State laws, rules, or regulations, or which may require any rebates to the Federal Government, or any loss of tax-free status on State bonds, pursuant to any Federal statute or regulation.
- 1.4 Grantee shall use disbursement amounts to pay outstanding costs incurred immediately, if Grantee has not already paid such costs.

2. Budget Contingency Clause

The maximum amount to be encumbered under this Agreement for the 2006-07 fiscal year ending June 30, 2007 shall not exceed seventy five thousand dollars and no cents (\$75,000.00).

The Grantee agrees to pay any and all costs associated with the completion of the Project, including without limitation, any and all Project costs exceeding the SWRCB approved grant amount.

If federal or other state funding assistance for Project costs is made available, the Grantee may retain all federal or other state funds received up to an amount that equals the Grantee's local share of Project costs. Any excess funds received, up to the total amount of the SWRCB grant funds received, shall be remitted to the SWRCB to the extent not prohibited by the requirements of the other funding sources. Any residue shall be the property of the Grantee.

Except as may be otherwise provided in this Agreement, disbursement of Grant Project Funds will be made as follows:

Only costs incurred after the date of approval of the Preliminary Funding Commitment is eligible for grant reimbursement. Disbursements may be requested in two (2) installments. The first disbursement may be requested upon submittal and approval of a draft facilities plan for an amount up to fifty percent (50%) of the total estimated grant amount. The second disbursement may be requested upon submittal and approval of the final facilities plan for an amount equal to fifty percent (50%) of total eligible costs incurred, not to exceed the maximum amount specified herein and less the amount of any previous disbursements. Disbursement requests must be approved by the SWRCB Grant Manager.

If during the course of the Study the Grantee determines that a water recycling project is not feasible for the study area, the Grantee, after consultation with and approval from the SWRCB Grant Manager, may terminate planning efforts prior to completion of all of the tasks specified in the plan of study. The results of the work completed and the basis for the conclusion shall be documented in a report. After submittal of the report, the Grantee may request a disbursement for an amount equal to fifty percent (50%) of the total eligible costs incurred, not to exceed seventy-five percent (75%) of the maximum amount specified herein and less the amount of any previous disbursement. The SWRCB Grant Manager must approve the disbursement request.

If the State 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 force and effect. This provision shall be construed as a condition precedent to the obligation of the SWRCB to make any payments under this Agreement. In this event, the State shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Agreement and Grantee shall not be obligated to perform any provisions of this Agreement. Nothing in this Agreement shall be construed to provide the Grantee with a right of priority for payment over any other Grantee.

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 Grantee to reflect the reduced amount.

3. Line Item Budget

Description	Grant Amount
Planning	\$75,000.00
Total	\$75,000.00

4. Reports.

4.1 Grantee shall complete a one (1) page Grant Summary Form within three (3) months of the Agreement execution <http://www.waterboards.ca.gov/funding/grantinfo.html>. A hard copy shall be submitted to the Grant Manager and an electronic copy for posting on the SWRCB website.

4.2 Completion of the Study, for purposes of the grant, consists of submittal of a final facilities planning report that fully documents all aspects of the study. The facilities planning report must include an analysis of all of the essential components of potential projects and must be in accordance with the Water Recycling Funding Guidelines dated October 21, 2004.

4.3 The Grantee agrees to expeditiously provide, during work on the Project and throughout the term of this Agreement, such reports, data, information, and certifications as may be reasonably required by the SWRCB.

5. Payment of Project Costs. The Grantee agrees that it will provide for payment of its full share of Project costs, and that all costs connected with the Project will be paid by the Grantee on a timely basis.

6. Audit Disallowances. The Grantee agrees it shall return any audit disallowances to the SWRCB.

EXHIBIT C  
SWRCB GENERAL CONDITIONS

1. **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.
2. **APPROVAL:** The Grantee will not proceed with any work on the Project until authorized in writing by the SWRCB.
3. **ASSIGNMENT:** This grant is not assignable by the Grantee, either in whole or in part, without the consent of the SWRCB.
4. **AUDIT:** Grantee agrees that the awarding department, 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. The Grantee agrees to maintain such records for a possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Grantee 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, Grantee agrees to include a similar right of the State to audit records and interview staff in any contract related to performance of this Agreement.
5. **BONDING:** Where contractors are used, Grantee shall not authorize construction to begin until each such contractor has furnished a performance bond in favor of the Grantee in the following amounts: faithful performance (100%) of contract value; labor and materials (100%) of contract value. This requirement shall not apply to any contract for less than \$20,000.00.
6. **CEQA/NEPA:** No work that is subject to the California Environmental Quality Act (CEQA) or National Environmental Policy Act (NEPA) may proceed under this Agreement until documents that satisfy the CEQA/NEPA process are received by the Grant Manager and the SWRCB has given environmental clearance. No work that is subject to an Environmental Impact Report or a Mitigated Negative Declaration may proceed until and unless approved by the Chief of the SWRCB's Division of Financial Assistance (Division). Such approval is fully discretionary and shall constitute a condition precedent to any work for which it is required.
7. **COMPLIANCE WITH LAW, REGULATIONS, ETC.:** The Grantee agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements. Without limitation of the foregoing, the Grantee agrees that, to the extent applicable, the Grantee will comply with the provisions of the adopted environmental mitigation plan for the term of this Agreement, or the useful life of the Project, whichever is longer.
8. **COMPUTER SOFTWARE:** The Grantee certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
9. **CONTINUOUS USE OF PROJECT; LEASE OR DISPOSAL OF PROJECT:** The Grantee agrees that, except as provided in the Agreement, it will not abandon, substantially discontinue use of, lease, or dispose of the Project or any significant part or portion thereof during the useful life of the Project without prior written approval of the Division. Such approval may be conditioned as determined to be appropriate by the Division, including a condition requiring repayment of all or any portion of all remaining grant Project funds covered by this Agreement together with accrued interest and any penalty assessments which may be due.
10. **DAMAGES FOR BREACH AFFECTING TAX EXEMPT STATUS:** In the event that any breach of any of the provisions of this Agreement by the Grantee shall result in the loss of tax exempt status for any state bonds,

or if such breach shall result in an obligation on the part of the State to reimburse the federal government by reason of any arbitrage profits, the Grantee shall immediately reimburse the state in an amount equal to any damages paid by or loss incurred by the state due to such breach.

11. **DISPUTES:** Grantee shall continue with the responsibilities under this Agreement during any dispute. Any dispute arising under this Agreement which is not otherwise disposed of by agreement shall be decided by the Chief of the Division, or his or her authorized representative. The decision shall be reduced to writing and a copy thereof furnished to the Grantee and to the SWRCB's Executive Director. The decision of the Division shall be final and conclusive unless, within thirty (30) calendar days after mailing of the Division decision to the Grantee, the Grantee mails or otherwise furnishes a written appeal of the decision to the SWRCB's Executive Director. The decision of the SWRCB's Executive Director 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 substantial evidence. In connection with any appeal under this clause, the Grantee shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Grantee shall continue to fulfill and comply with all the terms, provisions, commitments, and requirements of this Agreement. This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the SWRCB, or any official or representative thereof, on any question of law.
12. **FISCAL MANAGEMENT SYSTEMS AND ACCOUNTING STANDARDS:** The Grantee agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit tracing of grant funds to a level of expenditure adequate to establish that such funds have not been used in violation of state law or this Agreement. The Grantee further agrees that it will maintain separate Project accounts in accordance with generally accepted accounting principles.
13. **GOVERNING LAW:** This grant is governed by and shall be interpreted in accordance with the laws of the State of California.
14. **GRANT MODIFICATIONS:** The SWRCB may, at any time, without notice to any sureties, by written order designated or indicated to be a "grant modification", make any change in Exhibit A, for the work to be performed under this Agreement so long as the modified work is within the general scope of work called for by this Agreement, including but not limited to changes in the specifications or in the method, manner, or time of performance of work. If the Grantee intends to dispute the change, the Grantee must, within ten (10) days after receipt of a written "grant modification", submit to the SWRCB a written statement setting forth the disagreement with the change.
15. **INCOME RESTRICTIONS:** The Grantee agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Grantee under this Agreement shall be paid by the Grantee to the State, to the extent that they are properly allocable to costs for which the Grantee has been reimbursed by the State under this Agreement.
16. **INDEPENDENT ACTOR:** The Grantee, and its agents and employees, if any, in the performance of this Agreement, shall act in an independent capacity and not as officers of employees or agents of the SWRCB.
17. **INSPECTION:** Throughout the life of the Project, the SWRCB shall have the right to inspect the Project area to ascertain compliance with this Agreement. Grantee acknowledges that the Project records and location are public records.
18. **INSURANCE:** Throughout the life of the Project, the Grantee shall provide and maintain insurance against fire, vandalism and other loss, damage, or destruction of the facilities or structures constructed pursuant to this Agreement, if any. This insurance shall be issued by a company or companies admitted to transact business in the State of California. The insurance policy shall contain an endorsement specifying that the policy will not be cancelled or reduced in coverage without thirty days' prior written notice to the SWRCB. In the event of any damage to or destruction of the Project or any larger system of which it is a part, the net proceeds of insurance shall be applied to the reconstruction, repair or replacement of the damaged or destroyed parts of the Project or its larger system. The Grantee shall begin such reconstruction, repair, or replacement as expeditiously as possible and shall pay out of such net proceeds all costs and expenses in

connection with such reconstruction, repair or replacement so that the same shall be completed and the larger system shall be free of all claims and liens.

19. **NONDISCRIMINATION:** During the performance of this Agreement, the Grantee and its contractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, religion, color, national origin, ancestry, disability, sexual orientation, medical condition, marital status, age (over 40) or denial of family-care leave, medical-care leave, or pregnancy-disability leave. The Grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment.
20. **NO THIRD PARTY RIGHTS:** The parties to this grant Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this grant Agreement, or of any duty, covenant, obligation or undertaking established herein.
21. **NOTICE:** The Grantee shall promptly notify the SWRCB of events or proposed changes that could affect the scope, budget, or work performed under this Agreement. The Grantee agrees that no substantial change in the scope of the Project will be undertaken until written notice of the proposed change has been provided to the SWRCB, and the SWRCB has given written approval for such change. The Grantee shall notify the SWRCB at least ten (10) working days prior to any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by SWRCB's representatives. The Grantee shall promptly notify the SWRCB in writing of completion of work on the Project. The Grantee shall promptly notify the SWRCB in writing of any cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more and of any circumstance, combination of circumstances, or condition, which is expected to or does delay completion of construction for a period of ninety (90) days or more beyond the estimated date of completion of construction previously provided.
22. **OPERATIONS & MAINTENANCE:** The Grantee shall maintain and operate the facility and structures constructed or improved as part of the Project throughout the life of the Project, consistent with the purposes for which this Grant was made. The Grantee assumes all operations and maintenance costs of the facilities and structures; the SWRCB shall not be liable for any cost of such maintenance, management or operation. The Grantee may be excused from operations and maintenance only upon the written approval of the Grant Manager. For purposes of this Agreement, "operation costs" include direct costs incurred for material and labor needed for operations, utilities, insurance, and similar expenses. "Maintenance costs" include ordinary repairs and replacements of a recurring nature necessary to prolong the life of capital assets and basic structures, and the expenditure of funds necessary to replace or reconstruct capital assets or basic structures.
23. **PERMITS, CONTRACTING, WAIVER, REMEDIES AND DEBARMENT:** The Grantee 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 contractors, outside associates, or consultants required by the Grantee in connection with the services covered by this Agreement shall be limited to such individuals or firms as were specifically identified and agreed to during negotiations for this Agreement, or as are specifically authorized by the SWRCB's Grant Manager during the performance of this Agreement. Any substitutions in, or additions to, such contractors, associates, or consultants, shall be subject to the prior written approval of the SWRCB's Grant Manager. 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. The Grantee shall not contract 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". The Grantee shall not contract with any individual or organization on USEPA's List of Violating Facilities. (40 CFR, Part 31.35, Gov. Code 4477) [www.epls.gov](http://www.epls.gov) The Grantee certifies to the best of its knowledge and belief, that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or Grantee;
  - b. Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
  - d. Have not within a three (3)-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.
24. **PREVAILING WAGES AND LABOR COMPLIANCE:** If applicable, the Grantee agrees to be bound by all the provisions of State Labor Code Section 1771 regarding prevailing wages. If applicable, the Grantee shall monitor all agreements subject to reimbursement from this Agreement to assure that the prevailing wage provisions of State Labor Code Section 1771 are being met. The Grantee agrees to fulfill its responsibilities under Section 1771.8 of the Labor Code, where applicable.
25. **PROFESSIONALS:** The Grantee agrees that only licensed professionals will be used to perform services under this Agreement where such services are called for.
26. **RECORDS:** Without limitation of the requirement to maintain Project accounts in accordance with generally accepted accounting principles, the Grantee agrees to:
- a. Establish an official file for the Project which shall adequately document all significant actions relative to the Project;
  - b. Establish separate accounts which will adequately and accurately depict all amounts received and expended on this Project, including all grant funds received under this Agreement;
  - c. Establish separate accounts which will adequately depict all income received which is attributable to the Project, especially including any income attributable to grant funds disbursed under this Agreement;
  - d. Establish an accounting system which will adequately depict final total costs of the Project, including both direct and indirect costs;
  - e. Establish such accounts and maintain such records as may be necessary for the state to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations; and
  - f. If Force Account is used by the Grantee for any phase of the Project, establish an account that documents all employee hours, and associated tasks charged to the Project per employee.
27. **RELATED LITIGATION:** Under no circumstances may a Grantee use funds from any disbursement under this Grant Agreement to pay costs associated with any litigation the Grantee pursues against the State Water Resources Control Board or any Regional Water Quality Control Board. Regardless of the outcome of any such litigation, and notwithstanding any conflicting language in this Agreement, the Grantee agrees to complete the Project funded by this Agreement or to repay all of the grant funds plus interest.
28. **RIGHTS IN DATA:** The Grantee 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 shall be in the public domain. The Grantee may disclose, disseminate and use in whole or in part, any final form data and information received, collected, and developed under this Agreement, subject to appropriate acknowledgement of credit to the SWRCB for financial support. The Grantee shall not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so.

29. **STATE REVIEWS AND INDEMNIFICATION:** The parties agree that review or approval of Project applications, documents, permits, plans and specifications or other Project information by the SWRCB is for administrative purposes only and does not relieve the Grantee of its responsibility to properly plan, design, construct, operate, maintain, implement, or otherwise carry out the Project. To the extent permitted by law, the Grantee agrees to indemnify, defend and hold harmless the SWRCB and the State against any loss or liability arising out of any claim or action brought against the SWRCB and/or the State from and against any and all losses, claims, damages, liabilities or expenses, of every conceivable kind, character and nature whatsoever arising out of, resulting from, or in any way connected with (1) the Project or the conditions, occupancy, use, possession, conduct or management of, work done in or about, or the planning, design, acquisition, installation or construction, of the Project or any part thereof; (2) the carrying out of any of the transactions contemplated by this Agreement or any related document; (3) any violation of any applicable law, rule or regulation, any environmental law (including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the California Hazardous Substance Account Act, the Federal Water Pollution Control Act, the Clean Air Act, the California Hazardous Waste Control Law and California Water Code Section 13304, and any successors to said laws), rule or regulation or the release of any toxic substance on or near the System; or (4) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements required to be stated therein, in light of the circumstances under which they were made, not misleading with respect to any information provided by the Grantee for use in any disclosure document utilized in connection with any of the transactions contemplated by this Agreement. To the fullest extent permitted by law, the Grantee agrees to pay and discharge any judgment or award entered or made against the SWRCB and/or the State with respect to any such claim or action, and any settlement, compromise or other voluntary resolution. The provisions of this section shall survive the term of this Agreement.
30. **SUPPLEMENTAL ENVIRONMENTAL PROJECTS:** Grant Funds shall not be used for supplemental environmental projects required by Regional Boards.
31. **SWRCB ACTION, COSTS, AND ATTORNEY FEES:** The Grantee agrees that any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the SWRCB as a result of breach of this Agreement by the Grantee, whether such breach occurs before or after completion of the Project, and exercise of any remedy provided by this Agreement by the SWRCB shall not preclude the SWRCB from pursuing any legal remedy or right which would otherwise be available. In the event of litigation between the parties hereto arising from this Agreement, it is agreed that the prevailing party shall be entitled to such reasonable costs and/or attorney fees as may be ordered by the court entertaining such litigation.
32. **TERMINATION, IMMEDIATE REPAYMENT, INTEREST:** This Grant Agreement may be terminated by written notice at any time prior to completion of the Project, at the option of the SWRCB, upon violation by the Grantee of any material provision after such violation has been called to the attention of the Grantee and after failure of the Grantee to bring itself into compliance with the provisions of this Agreement within a reasonable time as established by the SWRCB. In the event of such termination, the Grantee agrees, upon demand, to immediately repay to the SWRCB an amount equal to the amount of grant funds disbursed to the Grantee prior to such termination. In the event of termination, interest shall accrue on all amounts due at the highest legal rate of interest from the date that notice of termination is mailed to the Grantee to the date of full repayment by the Grantee.
33. **TIMELINESS:** Time is of the essence in this Agreement. The Grantee shall proceed with and complete the Project in an expeditious manner.
34. **TRAVEL AND PER DIEM:** Any reimbursement for necessary travel and per diem shall be at rates not to exceed those amounts paid to the State's represented employees under collective bargaining Agreements currently in effect. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the SWRCB.

35. 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 shall continue to have full force and effect and shall not be affected thereby.
36. USEFUL LIFE OF PROJECT: For the purpose of this Agreement, the useful life of any constructed portions of this Project begins upon completion of construction and continues until fifty (50) years thereafter for pipelines and structures and twenty (20) years for all else.
37. VENUE: The SWRCB and the Grantee hereby agree that any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California, or in the United States District Court in and for the Eastern District of California. The Grantee hereby waives any existing sovereign immunity for the purposes of this Agreement.
38. WITHHOLDING OF GRANT DISBURSEMENTS: The SWRCB may withhold all or any portion of the grant funds provided for by this Agreement in the event that the Grantee has materially violated, or threatens to materially violate, any term, provision, condition, or commitment of this Agreement; or the Grantee fails to maintain reasonable progress toward completion of the Project.

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ATTACHMENT NO. 2  
PAGE 11 OF 12

EXHIBIT D  
Special Conditions

None at this time.

Special conditions as follows:

**CITY OF OXNARD**  
**REQUEST FOR SPECIAL BUDGET APPROPRIATION**

To the City Manager:

December 19, 2006

Request is hereby made for an appropriation of total . . . . .

\$ 75,000

Reason for appropriation: State Water Resources Control Board Water Recycling Grant

<u>FUND</u>	<u>DESCRIPTION/ACCOUNT</u>	<u>AMOUNT</u>
State Grant (XXX)	<b>GREAT Recyled Water Distribution Project</b> XXX-6542- (066003)	
	532-7231 - State Grant Rev	(75,000)
	826-8604 - Improve Not Buildings-New	<u>75,000</u>
	Net Estimated Change to State Grant Fund Balance	<u>-0-</u>

  
 \_\_\_\_\_  
 Manager

REQUIRES CITY COUNCIL APPROVAL

DIRECTOR OF FINANCE

  
 \_\_\_\_\_

Disposition

Approved \_\_\_\_\_

Rejected \_\_\_\_\_

Transfer by Journal Voucher \_\_\_\_\_

City Manager

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**ATTACHMENT NO. 6**  
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