CITY OF FRESNO
City Clerk's Office (Original)

1 H
9/24/09

REIMBURSEMENT AGREEMENT FOR DESIGN AND CONSTRUCTION OF JEFFERSON CANAL IMPROVEMENTS FOR CITY OF FRESNO INTERIM SURFACE WATER TREATMENT PLANT

This Agreement is made and entered into effective as of September 24 2009 ("Effective Date"), by and between the Fresno Irrigation District, a California irrigation district ("DISTRICT"), and the City of Fresno, a California municipal corporation ("CITY").

RECITALS

WHEREAS, the DISTRICT is a California irrigation district organized pursuant to the provisions of Division 11 of the California Water Code and has specific authority thereunder to engage in water delivery and groundwater enhancement programs including the development of facilities therefore; and

WHEREAS, the DISTRICT owns and operates the Jefferson Canal, the Jefferson 112 Pipeline, the Gunn Pipeline, and the Brown Pipeline shown on **Exhibit A** (collectively, "District Facilities"), attached hereto and incorporated by reference herein; and

WHEREAS, the DISTRICT has water rights which are held in trust by the Kings River Water Association and which water rights authorize the DISTRICT to deliver water to the CITY for domestic and municipal purposes for use within the Kings River service area; and

WHEREAS, the CITY is a charter city organized and existing under the laws of the State of California; and

WHEREAS, CITY intends to construct an interim surface water treatment plant ("Treatment Plant") on the north side of Dakota Avenue between Temperance and Armstrong Avenues, shown on **Exhibit A** as the "SITE", for the purpose of delivering domestic and municipal water supplies to residents and businesses within its service area until a larger, regional plant can be constructed; and

WHEREAS, CITY desires to use District Facilities, to transport water to the Treatment Plant; and

WHEREAS, CITY'S use of District Facilities will require certain improvements to the District Facilities and surrounding DISTRICT property (collectively, the "Improvements") to meet the California Department of Public Health (CDPH) requirements for treatment plant operation approval; and

WHEREAS, in meeting anticipated Treatment Plant operational parameters CITY also requires modifications within or near District Facilities (collectively, "Modifications"), such as enlarging the canal, removing encroachments (fencing, drain pipes, gates, trees, etc.), constructing at least one drivable maintenance road, installation of structures for automation and telemetry, and modification and/or addition to existing structures; and

WHEREAS, CITY and DISTRICT desire to enter into this Agreement for the purpose of designing and constructing the Improvements and Modifications; and

WHEREAS, CITY is in the process of completing a sanitary survey ("Survey") of the District Facilities and preparing a report of the findings to be provided to the CDPH; and

WHEREAS, the CDPH has approved a 20 year, State Revolving Fund Low Interest Loan # 1010007-11 in the amount of $431,030 (SRF Loan) pursuant to the Safe Drinking Water State Revolving Fund, as provided for "Phase II" in the CDPH correspondence dated April 23, 2008 attached hereto as **Exhibit B** and incorporated herein by reference; and

WHEREAS, the SRF Loan is inclusive of all CDPH approved costs as related to the design and construction of the Improvements and Modifications, and

WHEREAS, DISTRICT will be reimbursed by CITY through SRF Loan funds by causing the design and work under such loan to be performed, on behalf of the CITY, as a participant to the requirements of the SRF Loan.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. CITY and DISTRICT will utilize SRF Loan funds solely for the design and construction of the Improvements and Modifications. No funds from the SRF Loan contingency reserve (i.e. $107,758) shall be expended for the work without the prior approval of CITY and CDPH. CITY shall reimburse DISTRICT for work under this Agreement as provided in Section 8 below, subject to CITY's receipt of SRF Loan funds. Notwithstanding the foregoing, CITY shall be responsible to reimburse DISTRICT for construction of any Improvements and Modifications approved by CITY within two years of the completion thereof, regardless of the availability of SRF Loan funds or CDPH approval.

2. DISTRICT will complete the design (including plans and specifications) and construction of the Improvements and Modifications in accordance with this Agreement and the requirements contained herein.

3. DISTRICT has engaged Provost & Pritchard Engineering Group (P&P) to evaluate and design the Improvements and recommend any Modifications, taking into account the results of the Survey and any CDPH responses to the Survey. DISTRICT shall cause P&P to prepare plans and specifications for construction of the Improvements and Modifications and submit such plans and specifications to CITY no later than the Effective Date for CITY and CDPH review and approval.

4. DISTRICT shall solicit competitive bids for construction of the Improvements and Modifications approved by CITY, DISTRICT and CDPH (the "Project"). Such solicitation and award shall include contract provisions relative to the utilization of Minority Business Enterprise/Women Business Enterprise (MBE/WBE) in **Attachments 1, 2 and 3** to **Exhibit D** attached hereto and incorporated by reference herein. DISTRICT shall, and require its potential prime contractor preparing a bid to, provide at least 5 days for preparation of proposals by potential subcontractors and suppliers.

5. In constructing the Project, DISTRICT shall comply with, and require its contractors or subcontractors to comply with all federal requirements set forth in **Exhibit C**, attached hereto and incorporated herein by reference, and all Cross-Cutting Federal Authorities set forth in **Exhibit D**.

6. The Project shall be constructed in accordance with the plans and specifications approved by DISTRICT and CITY, and further approved by CDPH as referenced in **Exhibit B**. Such approval by DISTRICT will be subject to DISTRICT'S determination that Improvements and Modifications designed will not inhibit or compromise DISTRICT'S use of the District Facilities.

7. DISTRICT shall cooperate with, and assist, CITY in meeting SRF Loan funding process requirements contained in **Exhibit B**, provided that CITY shall reimburse DISTRICT for any costs incurred in assisting CITY in meeting such requirements. DISTRICT shall (i) use its best efforts to complete construction of the project no later than January 31, 2011; (ii) notify CITY when such construction is approximately 50% complete; (iii) notify CITY when such construction is completed; (iv) complete all applicable environmental compliance documents and obtain any necessary approvals, including those through CITY and CDPH for the SRF Loan, prior to start of construction; and (v) submit all construction change orders to CITY for CITY and CDPH approval prior to issuance.

8. Subject to the provisions of Section 1 above, CITY shall reimburse DISTRICT for all costs incurred by DISTRICT in connection with design and construction of the Improvements and Modifications, within thirty (30) days from receipt of an invoice from the DISTRICT for work performed the previous month. Such invoice shall be for work completed, and shall include a description of work performed. Costs to be reimbursed, include, but are not limited to, construction costs, consultant costs, DISTRICT staff costs including overhead and administration, DISTRICT reasonable legal costs, and 80 % of the DISTRICT'S cost for study(ies) performed by the Irrigation Training and Research Center to investigate the use of the District Facilities proposed by the CITY.

9. DISTRICT shall deliver water to the Treatment Plant in accordance with the provisions contained within the 1972 Cooperative Agreement between DISTRICT and CITY upon completion of the Treatment Plant facilities and upon entering into a separate mutual agreement governing the ownership of the Improvements and Modifications, maintenance of District Facilities, water quality and regulatory compliance, cost reimbursement and such related matters as may be required through mutual agreement between CITY and DISTRICT. The parties commit to negotiate and execute such agreement in a timely fashion and in good faith.

10. CITY shall indemnify, hold harmless and defend DISTRICT and each of its directors, officers, employees and authorized volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages, including attorney's fees and litigation expenses (collectively, "Claims"), arising from the construction of the Improvements and the performance of the Modifications, except to the extent such Claims arise from the negligent or intentional acts, omissions or willful misconduct of DISTRICT. DISTRICT shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and authorized volunteers from any and all Claims arising from the construction of the Improvements and the performance of the

Modifications, except to the extent such Claims arise from the negligent or intentional acts, omissions or willful misconduct of CITY. DISTRICT shall require P&P and any construction contractor for the work to indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and authorized volunteers in accordance with the terms of the preceding sentence. This section shall survive termination or expiration of this Agreement.

11. It is understood and agreed that DISTRICT and CITY maintain insurance policies or self-insurance programs to fund their respective liabilities. The parties agree that such respective programs or policy coverage for Workers' Compensation shall contain a waiver of subrogation as to the other party and each of its officers, officials, agents, employees and authorized volunteers. DISTRICT shall require P&P to maintain a minimum of (i) Professional liability insurance coverage with limit of liability of not less than $1,000,000 and endorsed to include contractual liability, (ii) Commercial Automobile Liability (Auto) insurance coverage and Commercial General Liability (CGL) insurance coverage of not less than $1,000,000 per occurrence with CITY named as an additional insured on the both the Auto and CGL policies, (iii) Workers Compensation insurance as required under the California Labor Code, and (iv) Employer's liability insurance with minimum limits of $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee. DISTRICT shall require any construction contractor to maintain (i) CGL insurance policy, endorsed to name CITY as an additional insured, for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the contract) with limits of not less than $1,000,000 per occurrence for personal and advertising injury, $2,000,000 per occurrence for products and completed operations, $2,000,000 aggregate for products and completed operations, and $2,000,000 general aggregate applying separately to the work performed for the Modifications and Improvements; (ii) Auto insurance policy, endorsed to name CITY as an additional insured, to include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 - Any Auto) with limits of not less than $1,000,000 per accident for bodily injury and property damage; (iii) Workers Compensation insurance as required under the California Labor Code, and (iv) Employer's liability insurance with minimum limits of $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee. Any Workers' Compensation insurance policy hereunder shall contain a waiver of subrogation as to CITY, its officers, officials, agents, employees and authorized volunteers.

12. This Agreement and each of its exhibits and attachments referred to herein constitutes the entire understanding between the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by both parties hereto.

13. All notices and other communications required under this Agreement shall be in writing and shall be deemed to have been duly given (i) on the date of service, if served personally on the person to whom notice is to be given, (ii) on the date of service if sent by facsimile transmission with written confirmation of successful transmission, provided that notices received by facsimile after 5:00 p.m. shall be deemed given on the next business day, (iii) on the next business day after deposit with a recognized

overnight delivery service, or (iv) or on the third day after mailing, if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage-prepaid, and properly addressed as follows:

To the DISTRICT: Fresno Irrigation District
2907 South Maple Avenue
Fresno, CA 93725-2218
Telephone: 559-233-7161
Fax: 559-233-8227
Attn: Laurence Kimura, Assistant General Manager

To the CITY: City of Fresno
1910 E. University Avenue
Fresno CA 93703
Telephone: 559-621-5321
Fax: 559-457-1238
Attn: Glenn Knapp, P.E.

Either party may change its address for notices by providing notice to the other party as provided above.

14. This Agreement shall be binding upon and shall inure to the benefit of any successors or assigns of the parties.

15. Neither CITY, nor DISTRICT shall assign, delegate or transfer their rights and duties in this Agreement without the written consent of the other party.

16. This Agreement shall be administered and interpreted under the laws of the State of California. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.

17. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void in so far as it is in conflict with said law and the remainder of the Agreement shall remain in full force and effect.

18. In the event either party commences any litigation for the enforcement of this Agreement, the prevailing party, as determined by the court or arbitrator, shall be entitled to recover its attorney's fees and court costs included in the action brought thereon.

19. The rights, interests, duties and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

20. Time is of the essence with respect to the performance by the parties of each and every obligation under any provision of this Agreement.

21. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

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IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO,
a California municipal corporation

By: _____
René A. Ramirez, Director
Department of Public Utilities

FRESNO IRRIGATION DISTRICT,
a California irrigation district

By: _____
Gary R. Serrato, Secretary

ATTEST:
Rebecca E. Klisch, City Clerk

By: _____
Deputy Date 9/25/09

APPROVED AS TO FORM:
ATTORNEY FOR DISTRICT

By: _____
General Counsel

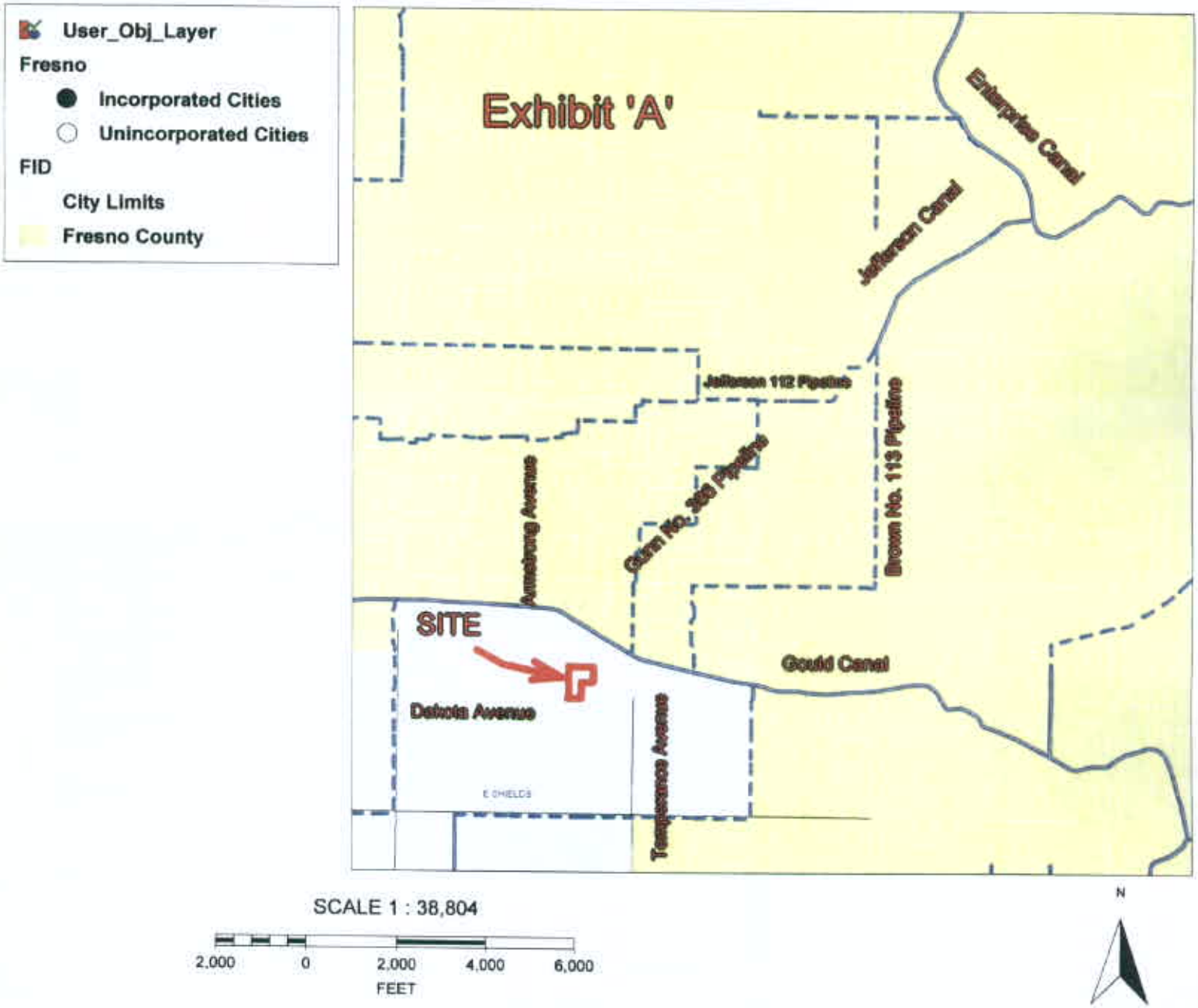
APPROVED AS TO FORM:
JAMES C. SANCHEZ
City Attorney

By: _____ 9/8/09
Nancy A. Algier Date
Senior Deputy

Attachments:

- Exhibit A – District Facilities and Site for Treatment Plant
- Exhibit B – CDPH April 23, 2008 Correspondence
- Exhibit C – Federal Requirements
- Exhibit D – Cross-Cutting Federal Authorities
  - Attachment 1 – MBE/WBE Contract Provisions
    - Attachment A – MBEWBE Contractor Information Form
    - Attachment B – MBEWBE Self Certification Form
  - Attachment 2 – MBEWBE Certification of Positive Effort Form
  - Attachment 3 – MBEWBE Quarterly Utilization Report Form

City of Fresno



Wednesday, May 20, 2009 8:45 AM

State of California—Health and Human Services Agency
California Department of Public Health

MARK B HORTON, MD, MSPH
Director

ARNOLD SCHWARZENEGGER
Governor

Exhibit 'B'

April 23, 2008

System No.: 1010007

Mr. Steve Woods
SDWSRF Program Manager
1616 Capitol Avenue, MS 7418
P.O. Box 9973413
Sacramento, CA 95899-7413

Dear Mr. Woods:

RE: Review and Approval of Plans and Specifications for the City of Fresno Water System – SDWSRF Project No. 1010007-011 – Revised Approval Memo

The Merced District Office has completed the review of the plans and specifications for the source water protection project for the City of Fresno (City) and has determined the following:

- The SDWSRF project consists of making improvements along the Enterprise Canal and Jefferson Canals, the surface water sources for the City's surface water treatment plants. The SDWSRF project is being undertaken in two phases. Improvements include installation of Class II aggregate base for a drivable levee along the canal from the headworks to the City's raw water intake for the SWTP, removal of tailwater pipes, removal of backwash drainage pipes, removal of non-operations pipes, installation of pasture fencing, and installation of two animal crossings. The Notice of Application Acceptance (NOAA) specifies that plans and specifications for Phase I of the project must be submitted to the Merced District Office before a funding contract will be issued by DWR.

- The plans and specifications for Phase I of the project are consistent with the preliminary project approval as described in the Project Technical Report and the findings set forth in the report are still valid.

- All elements of the project as set forth in the detailed plans and specifications for Phase I of the project comply with all applicable drinking water regulations, and other Department requirements.

- The City has complied with all of the technical conditions and deadlines as recommended by the Merced District and set forth in the NOAA.

Southern California Drinking Water Field Operations Branch
1040 East Herndon Avenue, Suite 205, Fresno, CA 93720
(559) 447-3300 (559) 447-3304 Fax
Internet Address: www.cdph.ca.gov

- The City's Water Supply Permit (No. 03-11-05PA-002) permits the City to operate the surface water treatment plant and the Enterprise Canal is designated as the source of supply for the surface water treatment plant. The City will apply for a permit amendment to include a new surface water treatment plant, T3 Plant, which will treat water from the Jefferson Canal (Phase II).

- The specifications to be used to solicit construction bids for Phase I of the project contain the required elements necessary to comply with the Federal cross-cutting requirements.

- The Notice of Exemption for the entire project has been completed and filed with the Fresno County Clerk's office.

- The total eligible project cost for Phases I and II of the project that should be reflected in the funding contract should be $1,968,136. The original project amount of $1,537,106, only included Phase I of the project. Since that time, Phase II of the project has been added at a cost of $431,030

The funding contract should contain the following recommended special conditions:

1. Construction for the entire project shall be completed no later than May 3, 2011

2. The City of Fresno shall notify the Merced District Office when the project construction is approximately 50% complete.

3. The City of Fresno shall submit final plans and specifications to the Merced District Office for Phase II of the project by February 1, 2009.

4. The City of Fresno shall notify the Merced District Office when construction is completed on Phase I of the project.

5. All environmental compliance documents must be completed and approved prior to the start of construction.

6. No disbursement of SDWSRF funds will be made for Phase II of the project until the final plans and specifications have been approved by the Merced District Office.

7. All construction change orders shall be submitted to the Merced District Office for approval prior to issuance.

8. No funds from the construction contingency reserve shall be expended without prior approval from the Merced District Office.

Carl L. Carlucci, District Engineer

cc: Mr. Brian Kinney, SDWSRF Program
Mrs. Lori Silva, SDWSRF Program
Mr. Lon Martin, City of Fresno
Mr. Glenn Knapp, City of Fresno
Fresno County Human Services System

CLC/kdc/Fresno SRF – revised appendix H memo – april 23 2008.doc

Exhibit C

Federal Requirements

1. Fresno Irrigation District ("DISTRICT") shall comply with, and require its contractors or subcontractors to comply with, all applicable federal and state laws, rules and regulations, permits, and all applicable local ordinances, specifically including, but not limited to, environmental, procurement and safety laws, rules, regulations, permits, and ordinances.

2. Upon execution of this Agreement and until 3 years following final payment by City of Fresno ("CITY") for the Modifications and Improvements, DISTRICT shall be subject to the examination and audit by CITY, California Department of Public Health ("CDPH" or "State") or any agent thereof, United States Environmental Protection Agency, the Comptroller General of the United States, and the United States Office of the Inspector General, with respect to all matters connected with performance of the Agreement, as amended herein, for construction of the Project. If any litigation, claim, negotiations, audit or other action is commenced before expiration of said same period, all records must be retained until such action is resolved, or until the end of said time period whichever shall later occur.

3. DISTRICT shall maintain and shall require its agents, contractors and subcontractors to maintain, books, records and other documents pertinent to their work in accordance with Generally Accepted Accounting Principles. Records are subject to inspection by CITY and CDPH at any and all reasonable times.

4. CITY and CDPH shall have the right, but not the duty, to inspect the work being performed on the Project at any and all reasonable times during the life of the Agreement, and for a period of 20 years following completion of the Project. This right extends to any portion of the Project under control of DISTRICT's contractor or subcontractors and DISTRICT shall include provisions ensuring such access in all its contracts or subcontracts related to the Project.

5. For the life of the Agreement, DISTRICT shall submit in advance, intentions of any sale, abandonment, lease, transfer, exchange, mortgage, hypothecate, or encumberance in any manner whatsoever or any portion of any real or other property necessarily connected or used in conjunction with the Project to CITY and CDPH for comment on such intentions regarding continued performance of completed project operations. Upon Project completion and for a period of 20 years, which is the reasonably expected life of the Project, DISTRICT shall commence and continue operation of the Project; shall cause the Project to be operated in an efficient and economical manner and may coordinate with the cities of Fresno and Clovis for the making of any repairs, renewals, and replacements necessary for the effective operation of the Project; and shall cause the Project to be maintained in as good of condition as upon its construction, ordinary and reasonable wear and depreciation excepted. Failure by DISTRICT to complete the Project in accordance with this Agreement may, at the option of CITY, be considered a material breach of the Agreement and upon notice by CITY, DISTRICT shall have 60 calendar days from the date of such notice to cure the default. If DISTRICT fails to timely cure the default to the

satisfaction of CITY and CDPH, the CITY may terminate any obligation of CITY to DISTRICT, perform any of DISTRICT's obligations under this Agreement, and/or take any other action it deems necessary to protect its interests.

6. During the life of the Agreement and for a period of 20 years following completion of the Project, DISTRICT, its contractors and subcontractors, shall not deny this Agreement'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. DISTRICT, its contractors and subcontractors shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

DISTRICT, 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.

By signing this Agreement, DISTRICT assures State that it shall comply with the requirements of 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; the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d (1988) et seq; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 (1989); Federal Water Pollution Control Act Amendments of 1972, Pub.L. No. 92-500, 86 Stat 816; and the Age Discrimination Act of 1973, as amended, 42 U.S.C. 6102 (1994); together with all applicable regulations and guidelines adopted to implement same. Said group of laws and requirements are collectively referred to herein as the "anti-discrimination laws".

DISTRICT agrees to collect and maintain information to show compliance with the "anti-discrimination laws" including a list of discrimination complaints, reports of any compliance reviews conducted by other agencies, descriptions of any pending discrimination-based lawsuits and data on the racial, ethnic, national origin, sex and handicap characteristics of the population it serves.

DISTRICT agrees to cooperate with State in all manner necessary to permit State to adequately report to the United States Environmental Protection Agency on DISTRICT's compliance with the "anti-discrimination laws".

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

DISTRICT'S signature on this Agreement shall constitute a certification under the penalty of perjury under the laws of State of California that DISTRICT has, unless exempted, complied with the nondiscrimination program requirements of

Government Code, Section 12990, and Title 2, California Code of Regulations, Section 8103.

DISTRICT shall include the nondiscrimination and compliance provisions of this Section in all contracts and subcontracts to perform work on the Modifications and Improvements.

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

8. DISTRICT agrees that for any policy of general liability insurance concerning the construction of the Modifications and Improvements, it will cause, and will require its contractors and subcontractors to cause, a certificate of insurance to be issued showing CITY, State, and their officers, agents, employees, and servants as additional insured; and shall provide CITY and State with a copy of all such certificates prior to the commencement of construction of the Project.

9. If archaeological features or materials are unearthed during any phase of work activities, all work in the immediate vicinity of the find shall halt until the DISTRICT has contacted CITY and the CDPH Environmental Review Unit (ERU), and the significance of the resource has been evaluated. Any mitigated measures that may be deemed necessary must have the approval of the ERU, and shall be implemented by a qualified archaeologist representing the DISTRICT prior to the resumption of construction activities. If human remains are exposed by project-related activity, the DISTRICT shall comply with California State Health and Safety Code, Section 7050.5, which states that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to California Public Resources Code, Section 5097.98. The DISTRICT will provide the opportunity for (a) Native American monitor(s) to participate in the identification, evaluation, and mitigation of effects upon, any Native American human remains or cultural resources inadvertently exposed during the proposed undertaking. Consultation with personnel designated by the Native American Heritage Commission would be acceptable. Should tribal representatives agree to consult on any such discoveries; the costs incurred will be the responsibility of the DISTRICT.

10. DISTRICT is responsible for the implementation of "best management practices" to the minimum levels of those identified in the California Urban Water Conservation Council – Memorandum of Understanding (MOU), which can be found at www.cuwcc.org/mou-main-page.aspx

Exhibit D

COMPLIANCE WITH CROSS-CUTTING FEDERAL AUTHORITIES

ARTICLE D-1. COMPLIANCE WITH FEDERAL AUTHORITIES

(a) Fresno Irrigation District ("Supplier") agrees to comply with all applicable state and federal laws and authorities, including but not limited to the federal authorities listed below; and to the fullest extent required by law, shall require compliance with said authorities by its contractors and subcontractors on the Project.

- Procurement Prohibition under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans
- Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended
- Debarment and Suspension, Executive Order 12549
- Age Discrimination Act of 1975, Pub. L. 94-135
- Title VI of the Civil Rights Act of 1964, Pub. L. 88-352 (2)
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the Clean Water Act)
- Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and 11250)
- Equal Employment Opportunity, Executive Order 11246
- Women's and Minority Business Enterprise, Executive Orders 11625, 12138 and 12432
- Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590

(b) In partial compliance with the above list of Cross-cutting Federal Authorities, Supplier agrees to take certain actions specifically set forth in the following Articles:

ARTICLE D-2. EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

Supplier agrees that it shall be deemed to be a contractor and shall comply with the following requirements in that role:

(a) During the performance of this Agreement, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, or age. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, or age. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the Federal Government setting forth the provisions of the Equal Opportunity Clause and the Rehabilitation Act of 1973. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race color, religion, sex, national origin, physical or mental handicap, or age, and the rights of applicants and employees.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, physical or mental handicap, or age.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding of notice, to be provided by the Federal Government advising the labor union or workers' representative of the contractor's commitments under the Equal Opportunities Clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of the Rehabilitation Act of 1973 and of the Federal Executive Order No. 11246 as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the requirements of this Equal Opportunity Clause or with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further federal contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended, and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as

amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) [of this Article] in every contract, subcontract or purchase order related to this Contract unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, or section 503 of the Rehabilitation Act of 1973, so that such provisions will be binding upon each contractor, subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor or the Director of Federal Compliance Programs or State may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request in writing to State, which, in turn, may request the United States to enter into such litigation to protect the interest of the United States and State.

Each contractor shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of Federal Executive Order No. 11246, as amended, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

(b) In addition, if the Project is to be constructed in a geographical area that has been designated by the Office of Federal Contract Compliance for special treatment, Supplier agrees that it will undertake, and will require its contractors and subcontractors to undertake affirmative action programs in accordance with regulations and other directive promulgated by that Office.

ARTICLE D-3. PARTICIPATION OF SMALL, MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES.

(a) Supplier acknowledges that Executive Orders 11625, 12138, and 12432 are applicable to this Contract, and that the United States Environmental Agency (EPA) requires that recipients of financial assistance, including assistance under the SDWSRF, comply with the requirements of said orders. In compliance with such requirements, State has negotiated "Fair Share Objectives" with EPA for participation of small, minority and women-owned businesses in all procurement activity undertaken with funds made available to Supplier under this Contract. Said "Fair Share Objectives" are set forth in **Attachment 1**, attached hereto and incorporated herein by this reference. Supplier agrees that it will cooperate with and assist State in achieving said "fair share objectives" and will exercise good faith efforts to achieve such minimum participation of small, minority and women-owned businesses, and in particular agrees that in the selection of

any and all contractors for the procurement of equipment, supplies, construction, and services related to the project, it, at a minimum, has or will undertake the following affirmative steps:

(1) Include small, minority and women-owned businesses on solicitation lists;

(2) Assures that small, minority and women-owned businesses are solicited whenever they are potential sources;

(3) Divide total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small, minority or women-owned businesses;

(4) Establish delivery schedules, when the requirements of the work permit, which will encourage participation by small, minority or women-owned businesses;

(5) Use the services of the Small Business Administration and the Office of Minority Business Enterprise of the U.S. Department of Commerce, as appropriate; and

(6) If any contractor awards subagreements, require the contractor to take the affirmative steps in paragraphs (1) through (5) of this paragraph.

(b) Supplier agrees that prior to the award of any contract for the procurement of equipment, supplies, construction, or services related to the Project, it has or will review the efforts of such contractor to include small, women, and minority owned businesses and will assure State that such contractor has complied with the requirements of this Article D-3. A form for providing said assurance will be provided by State in a form substantially similar to that of **Attachment 2**, attached hereto and incorporated by reference herein.

(c) Supplier agrees that it shall report, and shall require its contractors to report, on its good faith efforts and achievements in meeting State's "fair share objectives" and other requirements of this Article. Supplier shall provide such reports to State within fifteen (15) days after the end of each Federal fiscal quarter during which Supplier, or any of its contractors, have awarded any contracts for procurement of equipment, supplies, construction or services related to the Project. Supplier shall report said information on a form to be provided by State, which form will be substantially similar to the form attached hereto as **Attachment 3** and incorporated by reference herein.

ARTICLE D-4. PROCUREMENT PROHIBITIONS.

By its signature on this Contract, Supplier certifies that it will not procure goods, services, or materials from any entity, or otherwise utilize any facility for the construction of the Project, if such entity or facility is listed on the USEPA's List of Violating Facilities, and Supplier further certifies it will comply with the provisions of Executive Order No. 11738, 3 C.F.R. 799 (1973), Section 306 of the Clean Air Act of 42 U.S.C. 7606 (1994) and Section 508 of the Clean Water Act 33 U.S.C. 1368 (1982).

ARTICLE D-5. DEBARMENT AND SUSPENSION

Supplier agrees that for purposes of the following subparts (a) and (b), Supplier is the "prospective lower tier participant", and this Agreement is the "proposal".

(a) Instructions for Certification

(1) By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

(2) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

(3) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reasons of changed circumstances.

(4) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

(5) The prospective lower tier participant agrees by submitting this proposal that, should the proposal covered transaction be entered into, it shall not knowingly enter into any lower tier transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

(6) The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

(7) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not limited to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(9) Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

(b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ARTICLE D-6. UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION ACT

Supplier will comply, or has already complied with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646, 42 U.S.C. 4655), as amended, which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchase.

ARTICLE D-7. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

(Not applicable if Supplier is a public entity.)

Supplier by signing this Contract, does swear under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Supplier within the immediate preceding two-year period because of Supplier's failure to comply with an order of a federal court which orders Supplier to comply with an order of the National Labor Relations Board.

Attachment 1

CONTRACT PROVISIONS RELATIVE TO THE UTILIZATION OF MINORITY BUSINESS ENTERPRISE (MBE) AND WOMEN BUSINESS ENTERPRISE (WBE)

Compliance with the requirements of this document and attachments satisfies the MBE/WBE requirements for this construction contract. This document supersedes any conflicting requirements.

Failure to take the six (6) affirmative steps listed under Good Faith Effort Requirements, prior to bid opening and to submit the Minority Business Enterprise/Women Business Enterprise Information (Attachment A) form with the bid shall cause the bid to be rejected as a non-responsive bid.

The Fresno Irrigation District, on behalf of the City of Fresno, advises potential bidders that the project ***is being*** funded in whole or part with federal loan or grant funds through the California Safe Drinking Water State Revolving Fund, and, as such, Executive Orders 11625, 12138, and 12432 are applicable to this contract. The United States Environmental Agency (EPA) requires that recipients of financial assistance, including assistance under the SDWSRF, comply with the requirements of these orders. In compliance with such requirements, California SDWSRF has negotiated "Fair Share Objectives" with EPA for participation of small, minority and women owned businesses in procurement activity undertaken with funds made available through the SDWSRF.

Bidder agrees that it will cooperate with and assist the Fresno Irrigation District and City of Fresno in achieving "fair share objectives" and will exercise Good Faith Efforts to achieve such minimum participation of small, minority and women owned businesses. In particular, in submitting a bid, the bidder shall, in the selection of any and all contractors, subcontractors, and vendors for the procurement of equipment, supplies, construction, and services related to the project, at a minimum, undertake the following affirmative "Good Faith Effort" steps:

Good Faith Effort Requirements

(1) Include small, minority and women owned businesses on solicitation lists;

(2) Assure that small, minority and women owned businesses are solicited whenever they are potential sources. Specific guidelines are published on website as part of bid solicitation;

(3) Divide total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small, minority and women owned businesses;

(4) Establish delivery schedules, when the requirements of the work permit, which will encourage participation by small, minority and women owned businesses;

(5) Use the services of the Small Business Administration and the Office of Minority Business Enterprise of the U.S. Department of Commerce, as appropriate; and

(6) If any contractor awards subagreements, require the contractor to take the affirmative steps in paragraphs (1) through (5) of this section.

Other Requirements:

(1) All bidders must submit documentation showing that, prior to bid opening, all required positive efforts were made. The documentation must be received by the **Fresno Irrigation District** by 5PM one (1) working day following bid opening, except Attachment A (*Contractor Information Form*), which is to be submitted with the bid. Failure to submit Attachment A (*Contractor Information Form*) with the bid will cause the bid to be rejected as non-responsive.

(2) If the apparent successful low bidder has rejected or considered as non-responsible and or non-responsive any low MBE or WBE sub-bidder, a complete explanation must be provided to the Fresno Irrigation District.

(3) Each MBE/WBE firm to be utilized must complete the Attachment B (*MBE/WBE Self Certification*), **or equivalent certification** by a federal, state, or local government entity. Such certification documentation shall be submitted to the Fresno Irrigation District by the apparent successful low bidder.

(4) If additional procurement becomes necessary after the award of the prime contract, good faith efforts shall be applied, and, if MBE/WBE subcontracts are awarded, Attachment B (*MBE/WBE Self Certification*) or equivalent certification shall be provided to the Fresno Irrigation District by the prime contractor within 10 working days following the award of each new subcontract.

(5) Any deviation from the information contained in Attachment A (*Contractor Information Form*) shall not result in a reduction of MBE/WBE participation without prior approval of the Fresno Irrigation District and City of Fresno.

(6) Failure of the apparent low bidder to perform the six affirmative (Good Faith Effort) steps prior to bid opening and/or to submit Attachment A (*Contractor Information Form*) with its bid will lead to its bid being declared non-responsive by the Fresno Irrigation District. The Fresno Irrigation District may then award the contract to the next low responsive, responsible bidder meeting the requirements of these contract provisions.

Fair Share Objectives:

The following good faith effort objectives have been established for this construction contract:

Procurement Category	MBE	WBE
Construction	22%	9%
Supplies	17%	7%
Equipment	14%	7%
Services	16%	14%

MINORITY BUSINESS ENTERPRISE/WOMEN BUSINESS ENTERPRISE INFORMATION

(SUBMIT WITH THE BID – Failure to complete and submit this form with bid will cause the bid to be rejected as non-responsive)

WATER SYSTEM NAME: CITY OF FRESNO ID # 101007	**WATER SYSTEM NUMBER-PROJECT NUMBER**: 101007-011 CONTRACT # SRF08SWX101
PROJECT DESCRIPTION:	**PROJECT LOCATION**:

PRIME CONTRACTOR INFORMATION

NAME AND ADDRESS (Include ZIP code):	TYPE OF CONTRACT ☐ ARCHITECT/ENGINEER(A/E) ☐ CONSTRUCTION ☐ SUPPLIER/SERVICE (S/S)
☐ MBE ☐ WBE	AMOUNT OF CONTRACT/BID: $

MBE/WBE INFORMATION

☐ MBE ☐ WBE ☐ SUBCONTRACTOR ☐ SUPPLIER/SERVICE ☐ JOINT VENTURE ☐ BROKER	**NAME AND ADDRESS** (Include ZIP code): PHONE:
CONTRACT AMOUNT	**TYPE OF CONTRACT:**
☐ MBE ☐ WBE ☐ SUBCONTRACTOR ☐ SUPPLIER/SERVICE ☐ JOINT VENTURE ☐ BROKER	**NAME AND ADDRESS** (Include ZIP code): PHONE:
CONTRACT AMOUNT $	**TYPE OF CONTRACT:**
☐ MBE ☐ WBE ☐ SUBCONTRACTOR ☐ SUPPLIER/SERVICE ☐ JOINT VENTURE ☐ BROKER	**NAME AND ADDRESS** (Include ZIP code): PHONE:
CONTRACT AMOUNT $	**TYPE OF CONTRACT:**

GOALS FOR MBE & WBE PARTICIPATION / PARTICIPATION ACHIEVED

	% MBE	% WBE	MBE $	MBE %	WBE $	WBE %
Construction	22%	9%	$	%	$	%
Equipment	16%	14%	$	%	$	%
Services	14%	7%	$	%	$	%
Supplies	17%	7%	$	%	$	%
		Total	$_____		$_____	

FORM COMPLETED BY:

NAME	TITLE	PHONE
SIGNATURE	DATE	EMAIL

☐ Additional pages attached

ATTACHMENT B

MINORITY BUSINESS ENTERPRISE/WOMEN'S BUSINESS ENTERPRISE (MBE/WBE)[1]

SELF CERTIFICATION

DEPARTMENT OF HEALTH SERVICES
DIVISION OF DRINKING WATER AND ENVIRONMENTAL MANAGEMENT

Firm Name: _____ Phone: _____

Address: _____

Principal Service or Product: _____

_____

☐- MBE ☐- WBE

☐- Prime Contractor ☐- Supplier of Material/Service

☐- Subcontractor ☐- Broker

☐- Sole Ownership ☐- Corporation

☐- Partnership ☐- Joint Venture

Names of Owners	Percent Ownership	MBE-Ethnic Identity[1]	WBE

Additional proofs may be required upon written challenge of this certification by any person or agency. Falsification of this certification by a firm selected to perform Federally funded work may result in a determination that the firm is nonresponsible and ineligible for future contracts.

Certified by: _____ Title: _____
(Signature)

Name: _____ Date: _____

[1] Refer to definitions on the next page.

-DEFINITIONS-

MINORITY BUSINESS ENTERPRISE/WOMEN'S BUSINESS ENTERPRISE (MBE/WBE)

A MBE is a business that is, (1) at least 51 percent owned and controlled by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more of the minority owners.

A WBE is a business that is, (1) at least 51 percent owned by one or more women, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women; and, (2) whose daily business operations are managed and directed by one or more of the women owners.

MINORITY INDIVIDUALS INCLUDE:

(a) American Indians

Persons having origins in any of the original peoples of North America. To qualify in this group, a person must be a citizen of the United States and meet one or more qualifying criteria including:

(1) Be at least one-fourth Indian descent (as evidenced by registration with the Bureau of Indian Affairs);

(2) Characteristic Indian name;

(3) Recognition in the community as an Indian;

(4) Membership in a tribe, band or group of American Indians (recognized by the Federal Government), as evidenced by a tribal enrollment number or similar indication; and

(5) Characteristic Indian appearance and features.

(b) Black Americans

U.S. citizens, other than Hispanic, having origins in any of the black racial groups of Africa.

(c) Asian Americans

U.S. citizens having origins in any of the original peoples of the Far East, Southern Asia, the Indian subcontinent or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands and Samoa. The Indian subcontinent takes in the countries of India, Pakistan, Bangladesh, Sri Lanka, Nepal, Sikkim, and Bhutan.

(d) Hispanic Americans

U.S. citizens of Mexican, Puerto Rican, Cuban, or other Spanish culture or origin, regardless of race. Only those persons from Central and South American countries who are of Spanish origin, descent, or culture should be included in this category. Persons from Brazil, Guyana, Surinam or Trinidad, for example, would be classified according to their race and would not necessarily be included in the Hispanic category. In addition, the category does not include persons from Portugal, who should be classified according to race.

(e) American Eskimos and American Aleuts

CERTIFICATION OF POSITIVE EFFORT[1]
MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PARTICIPATION

Name of Applicant Water System _____

Water System ID No.: _____ SDWSRF Contract No.: _____ Project No.: _____

Description of Project (contract work): _____

_____

_____

Minority- and Women-owned Business Enterprise participation in this contract, which is funded through the California Safe Drinking Water State Revolving Fund Loan Program, has been obtained from the selected bidder/offeror:

_____ _____
(Contractor name) (Contractor license number)

and the documentation has been reviewed by _____ to ensure that
(NAME OF APPLICANT WATER SYSTEM)

the bidder/offeror has satisfactorily carried out the following affirmative steps:

1. Included qualified minority and women-owned businesses on solicitation lists;
2. Solicited minority and women-owned businesses whenever they are potential sources;
3. Divided total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by minority- and women-owned businesses;
4. Where feasible, established delivery schedules to encourage participation by minority- and women-owned businesses;
5. Used the services and assistance of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U.S. Small Business Administration to identify minority- and women-owned business enterprises; [(MBE) and (WBE)] and
6. If a selected sub-contractor awards sub-agreements, required the subcontractor to take the affirmative steps Included paragraphs 1 through 5 above.

_____ shall maintain all documentation related to MBE/WBE good faith efforts, evaluation
(NAME OF APPLICANT WATER SYSTEM)

of that effort, contractor selection, and MBE/WBE participation, in the project files and make it available upon request.

The participation goals for this project are: MBE: _____% WBE: _____%

The participation levels[2] attained by the contractor are: MBE: _____% WBE: _____%

The _____ has made a good faith effort to facilitate Minority- and
(NAME OF APPLICANT WATER SYSTEM)

Women-owned Business Enterprise participation in this construction contract. I, the undersigned representative of _____, hereby certify that all information provided herein is correct
(NAME OF APPLICANT WATER SYSTEM)

to the best of my knowledge and belief.

_____ _____
(signature of authorized representative) (date)

_____ _____
(Typed name of authorized representative) (Title of authorized representative

[1]This certification is required pursuant to federal regulations, specifically 40 CFR 31.36(e).

[2]Attach Contractor Information Form (01/00) concerning MBE/WBE firms participating in this contract.

CALIFORNIA DEPARTMENT OF HEALTH SERVICES
SAFE DRINKING WATER STATE REVOLVING FUND PROGRAM
MINORITY BUSINESS ENTERPRISE/WOMEN BUSINESS ENTERPRISE MBE/WBE
QUARTERLY UTILIZATION REPORT
FOR COMPLIANCE WITH FEDERAL SDWSRF FUNDING REQUIREMENTS

PART 1. Positive and/or negative reports are required.

1A. FEDERAL FISCAL YEAR
2 0 0 ___

1B. REPORTING QUARTER (Check appropriate box)
☐ 1st (Oct-Dec) ☐ 2nd (Jan-Mar) ☐ 3rd (Ap-Jun) ☐ 4th (Jly-Sept) ☐ Annual

2A. SUBMIT REPORT TO

3A. LOAN RECIPIENT'S NAME AND ADDRESS)

3B. SRF LOAN NO.:

2B. STATE CONTACT

2C. PHONE:

3C. RECIPIENT'S CONTACT

3D. PHONE:

4A. TOTAL PROJECT FUNDING

SRF LOAN $_____

SRF GRANT $_____

OTHER FUNDS $_____

4B. PROJECT SRF GOALS FOR MBE / WBE PARTICIPATION

	% MBE	% WBE
Construction	22%	9%
Equipment	16%	14%
Services	14%	7%
Supplies	17%	7%

4C. PERIOD WHEN CONTRACTS AND/OR PURCHASES UNDER THIS PROJECT ARE EXPECTED TO OCCUR:

START DATE (MO/YEAR) ☐ END DATE (MO/YEAR): ☐

5A. SRF CLAIMS THIS REPORTING PERIOD:

$ _____

5B. MBE/WBE PROCUREMENT THIS REPORTING PERIOD

	$ MBE	$ WBE
Construction	$	$
Equipment	$	$
Services	$	$
Supplies	$	$
TOTAL	$	$

6A. NEGATIVE REPORT THIS QUARTER (check here) ☐

6B. COMMENTS

7A. NAME OF RECIPIENT'S AUTHORIZED REPRESENTATIVE

7B. TITLE

7C. SIGNATURE OF AUTHORIZED REPRESENTATIVE

7D. DATE

THIS REPORT IS DUE 15 DAYS AFTER THE END OF EACH FISCAL QUARTER
SUBMISSION DATES ARE: January 15, April 15, July 15, and October 15.

CALIFORNIA DEPARTMENT OF HEALTH SERVICES
SAFE DRINKING WATER STATE REVOLVING FUND PROGRAM
MINORITY BUSINESS ENTERPRISE/WOMEN BUSINESS ENTERPRISE MBE/WBE
QUARTERLY UTILIZATION REPORT
FOR COMPLIANCE WITH FEDERAL SDWSRF FUNDING REQUIREMENTS

A. WATER SYSTEM NAME:	B. SYSTEM-PROJ NO.	C. SDWSRF LOAN NUMBER	D. CLAIMS SUBMITTED From (date): to (date):

1. Procurement Made by		2. Business Enterprise		3. $ Value of Procurement	4. Date of Award	5. Type of Product or Service (Enter Code)	6. MBE/WBE Contractor or/ Subcontractor/Vendor Name / Address
Water System	Contractor	Minority	Women				

Type of product or service codes:			
1 = Construction	2 = Supplies	3 = Services	4 = Equipment
		A=business services	
		B=professional services	
		C=repair services	
		D=personal services	

City of FRESNO **REPORT TO THE CITY COUNCIL**

AGENDA ITEM NO.	1 H
COUNCIL MEETING	9/24/09
APPROVED BY	
DEPARTMENT DIRECTOR	
CITY MANAGER	

Presented to City Council
Date 9/24/09
Disposition Rec. approved

September 24, 2009

FROM: RENE A. RAMIREZ, Director
Department of Public Utilities

BY: MARTIN A. QUERIN, P.E., Assistant Director
Department of Public Utilities - Water Division

SUBJECT: APPROVE REIMBURSEMENT AGREEMENT WITH FRESNO IRRIGATION DISTRICT FOR DESIGN AND CONSTRUCTION OF IMPROVEMENTS ALONG THE JEFFERSON CANAL UTILIZING UP TO $431,030 OF A 20-YEAR SAFE DRINKING WATER STATE REVOLVING FUND LOW INTEREST LOAN AND AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES TO SIGN ON BEHALF OF THE CITY OF FRESNO

RECOMMENDATION

Staff recommends that the City Council approve the Reimbursement Agreement with the Fresno Irrigation District (District) for the design and construction of improvements along the Jefferson Canal utilizing up to $431,030 of a 20-year Safe Drinking Water State Revolving Fund Low-Interest Loan to protect source waters from potential contaminating activities, and authorize the Director of Public Utilities to sign on behalf of the City of Fresno (City).

EXECUTIVE SUMMARY

On October 3, 2006, Council authorized acceptance of a 20-Year State Revolving Fund Low Interest (2.29%) Loan (SRF Loan), and Resolution for improvements along the Enterprise Canal under Application Number 1010007-011. On July 29, 2008, an amendment to the loan amount of $1,537,106 (Phase I) was approved by Council to include improvements along the Jefferson Canal (Phase II), to serve a permanent 3 million gallon water storage tank, and interim 8 million gallon a day (8 MGD) package water treatment plant in the City's southeast area until a larger, regional plant could be constructed. The amended amount relative to improvements for the Jefferson Canal is $431,030, bringing the total SRF Loan amount to $1,968,136. Approval of the Reimbursement Agreement between the City and District will provide for the design and construction of improvements along the Jefferson Canal in meeting California Department of Public Health (CDPH) requirements for operation of the interim water treatment plant.

BACKGROUND

During 1996, Congress adopted amendments to the federal Safe Drinking Water Act (SDWA) that included grants to States to establish a State Revolving Fund Low-Interest Loan (SRF Loan) program. The program goals reflect both federal and state legislative intent to provide funding to correct Public Water System (PWS) deficiencies based upon a prioritized funding system. The City of Fresno was invited to submit application for these low-interest loans. In order to redirect available revenue to other critical capital improvement projects, Council authorized application to the CDPH for an SRF Loan of $1,100,000 at 2.29 percent interest through Resolution 2005-466 (October 25, 2005), and upon review by the Department of Water Resources (DWR) and CDPH, the application was found eligible for funding. On September 8, 2006, the State Department of Water

Resources (DWR) issued a Notice of Application Acceptance (NOAA) and due to escalating construction costs, revised the authorized loan amount to $1,537,106. On October 3, 2006, Council adopted Resolution 2006-454, and authorized the Director of Public Utilities to negotiate and sign the loan funding agreement.

On November 15, 2004, the City entered into an interagency construction agreement with the District which included among other action items, improvements to the drivable levee along the Enterprise Canal and Possible Contaminant Removal Action Plan which includes removal of un-authorized tail-water, back-wash, and non-operational discharge pipes within the canal, containment of chemical tanks along the canal, pasture fencing and animal crossings (to minimize potential animal contamination), and removal of debris along the canal.

Due to rapid area development in southeast Fresno, poor local groundwater conditions, and anticipated timelines in completion of a second regional surface water treatment plant, the Water Division (Division) has conditioned Tentative Tract Map No. 5427 by Lennar Fresno Inc. (Lennar). Thereafter, Lennar entered into a Development Agreement (Agreement) with the City for construction of a 3 million gallon water storage tank and interim 8 million gallons per day (8 MGD) package water treatment plant (T-3 Facility). Since, Lennar has acquired approximately 3.5 acres along Dakota Avenue between Armstrong and Temperance Avenues for the T-3 Facility

The Jefferson Canal will convey diverted surface waters from the Enterprise Canal for treatment at the T-3 Facility in meeting peak area domestic water demand and fire flow requirements. The Jefferson Canal is an open-ditch canal which initializes just north of Barstow Avenue at the Enterprise Canal, and proceeds to the corner of DeWolf and Shaw Avenues where it then flows into existing pipelines. Two of these pipelines (the Gunn No. 386 and Brown No. 113) are within proximity of the T-3 Facility and will serve as the conveyance system for source waters from the Jefferson Canal to the site.

The design and construction of improvements to the open-ditch portion of the Jefferson Canal would provide source water protection measures similar to those for the Enterprise Canal. Therefore, prior to signature of the SRF Loan funding agreement, an Amendment was presented to, and approved by the CDPH and DWR for funding under SRF Loan under Application Number 1010007-011

On July 29, 2008, Council authorized Amending Resolution 2008-187 which provides for additional improvements to be made along the Jefferson Canal (Phase II). The total original amount relative to the Enterprise Canal (Phase I) remains at $1,537,106. The SRF Loan amendment provided for an additional $431,030 relative to the design and construction of improvements along the Jefferson Canal for a total SRF Loan amount of $1,968,136. The effective date of the approved funding agreement is September 12, 2008, with all work (Enterprise and Jefferson Canals) to be completed by May 3, 2011.

The overall SRF Loan under Application Number 1010007-011, will reimburse the District for the design and construction of improvements along the Jefferson Canal (Phase II), a significant portion of the Water Enterprise Fund for capital costs already expended to date, and remaining uncompleted tasks for the Enterprise Canal (Phase I – Construction Agreement Amendment dated June 25, 2009) authorized under this loan in meeting regulatory recommendations for permits in operation of all surface water treatment facilities. The original Enterprise Canal Interagency Construction Agreement was previously budgeted and has been partially constructed as a part of the Division's multi-year Capital Improvements Program.

This reimbursement agreement will provide an avenue for completion of improvements along the Jefferson Canal (Phase II) in meeting CDPH regulatory requirements and continued progress in providing customers a safe and reliable water source.

The Reimbursement Agreement has been approved to form by the City Attorney's Office.

FISCAL IMPACT

The FY2009 Amended Budget includes the appropriation in the Water Enterprise Fund for this project. Revenues from the SRF Loan will be used to reimburse all costs. Repayment of the loan will be made from the Water Enterprise Fund. No increases for water service charges are required as the debt service payments were included in the adoption of the Water Rate Plan in 2007.