



City of Sacramento City Council

915 I Street, Sacramento, CA, 95814

www.CityofSacramento.org

Meeting Date: 8/9/2012

Report Type: Consent

Title: Agreement: Memorandum of Understanding for American River Watershed Sanitary Survey Update

Report ID: 2012-00539

Location: Citywide

Recommendation: Pass a Motion authorizing the City Manager or the City Manager's designee to 1) execute a Memorandum of Understanding with ten other municipal water purveyors for a sanitary survey update of the American River watershed area, for a total project cost not to exceed \$180,000, with the option for participating agencies to share costs of follow-up activities on a voluntary basis, in an amount up to \$14,000 per year per participating agency, and 2) execute an agreement with California State Prison at Folsom for reimbursement to the City for the State Prison's participation in the sanitary survey update and optional voluntary follow-up activities.

Contact: Bill Busath, Interim Engineering Manager, (916) 808-1434; Sherill Huun, Supervising Engineer, (916) 808-1455, Department of Utilities

Presenter: None

Department: Department Of Utilities

Division: Water Quality Engineering

Dept ID: 14001331

Attachments:

- 1- Description/Analysis
- 2 - Background
- 3 - Exhibit A - Agreement-MOU
- 4 - Exhibit B - Agreement with State

City Attorney Review

Approved as to Form
Joe Robinson
7/26/2012 12:43:26 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
7/20/2012 11:27:58 AM

Approvals/Acknowledgements

Department Director or Designee: Dave Brent - 7/24/2012 5:07:24 PM

Sandra Talbott, Interim City Attorney

Shirley Concolino, City Clerk
John F. Shirey, City Manager

Russell Fehr, City Treasurer



Description/Analysis

Issue: The California Surface Water Treatment Rule requires communities such as Sacramento that divert and treat surface waters for domestic water supplies to perform sanitary survey updates within their respective watersheds every five years. This report requests City Council approval of a Memorandum of Understanding (MOU) with ten other municipal water purveyors for the purpose of completing an American River Watershed Sanitary Survey Update to fulfill this requirement. A separate agreement with the California Department of Corrections and Rehabilitation is needed for reimbursement to the City for the California State Prison at Folsom's costs for this project.

Policy Considerations: Adoption of the proposed MOU will provide an opportunity for the City and other water purveyors to work together in a cooperative manner and share the costs of this study, which otherwise would need to be performed individually. Completion of the American River Watershed Sanitary Survey 2013 Update and conducting follow-up work to protect the City's American River water supply support the following utilities and environmental resources goals of the City's 2030 General Plan:

1. Provide water supply facilities to meet future growth within the City's Place of Use and assure a high-quality and reliable supply of water to existing and future residents.
2. Protect local watersheds, water bodies and groundwater resources, including creeks, reservoirs, the Sacramento and American rivers, and their shorelines.

Economic Impacts:

None

Environmental Considerations: The City's Environmental Planning Services Manager has reviewed the MOU and Agreement with the California Department of Corrections and Rehabilitation and determined that these actions are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15308. Authorization to enter into the MOU and Agreement regarding apportionment of costs for the 2013 watershed sanitary survey update of the American River watershed area is an action directed by the State that will help assure the maintenance and protection of the environment.

Sustainability: Conducting the watershed sanitary survey update and source water protection follow-up activities are consistent with the City's Sustainability Master Plan in advancing the goals of conserving the use and protection of sources of water.

Commission/Committee Action: Not applicable

Rationale for Recommendation: The City is required by the State of California Department of Public Health, Drinking Water Program to comply with regulations passed in June 1991, requiring all water suppliers using surface water sources to complete a sanitary survey of their respective watershed(s) and to provide an update report every five years. By partnering with other water utilities with this same requirement and geographical area of interest, the City can cost effectively meet this regulatory requirement.

Financial Considerations: The MOU is for a total project cost not to exceed \$180,000 for the watershed sanitary survey and up to \$14,000 per year per participating agency for voluntary follow-up activities. In addition, if requested by the City, the parties participating in the voluntary follow-up activities will each pay an equal share of the cost of Sacramento's project management services for each activity in an amount up to \$500 per participating agency.

The actual cost share amounts per participating agency will be provided in an upcoming City Council report for approval of a professional services agreement for preparation of the watershed sanitary survey report and for budget authority to budget for the reimbursements from the partner agencies.

The City's share of the watershed sanitary survey update is for an amount not to exceed \$16,000, not including related services in addition to the cost shared work. There is sufficient funding in I14010400 for these costs. There will be another City Council report in FY2012/13 for approval of a professional services agreement for the survey update. The authority to amend the revenue and expenditure budgets to include the reimbursements from the participating agencies will be included in that report.

Emerging Small Business Development (ESBD): Emerging and small business enterprise (ESBE) participation consistent with City policy will be included in any professional services agreements administered by the City.



Background

The California Code of Regulations, Title 22, Chapter 17, establishes the California Surface Water Treatment Rule (SWTR) which requires that all surface water suppliers conduct a sanitary survey of their watershed(s) at least once every five years. The first of these studies was required to be completed prior to January 1, 1996, or prior to issuance of a Department of Public Health (DPH) permit for a new or expanded surface water treatment facility, whichever comes first. In August 1993, the City and ten other municipal water purveyors in the American River watershed submitted a sanitary survey of the American River watershed to DPH. In December 1998 and 2003, the City and eleven other municipal water purveyors submitted the required updates of the sanitary survey to DPH. The City and ten other municipal water purveyors submitted the latest update to DPH in December 2008. The next update to the sanitary survey is due to DPH by December 2013.

The main purpose of the sanitary survey requirement is to determine the degree of treatment required to assure to the greatest degree possible that water supplies are free of microbial and other types of contamination. To comply with this requirement and obtain the necessary information to determine required levels of treatment, sanitary surveys must provide a description of the watershed, identify potential sources of contamination within the watershed, describe watershed management practices, and assess the microbial contaminant load at the point where the raw water is diverted to the treatment plant.

Over the past ten months, City staff has met or had discussions with representatives of California State Prison at Folsom (CSPF), Carmichael Water District, City of Folsom, City of Roseville, East Bay Municipal Utility District, El Dorado Irrigation District, Golden State Water Company, Placer County Water Agency, Sacramento County Water Agency (SCWA), and San Juan Water District to consider whether the SWTR sanitary survey requirements for the Fairbairn Water Treatment Plant and the other agencies' facilities can best be met through a jointly administered and financed project. This effort has resulted in the development of the attached Memorandum of Understanding (MOU) Regarding Contracting and Apportionment of Costs for a Sanitary Survey Update of the American River Watershed and Follow-up Activities. The other participating agencies have approved the MOU, with the exception of CSPF and the SCWA. CSPF has agreed in writing to participate in the project and pay its cost share, and CSPF will be completing approval of the MOU concurrently with finalizing a separate agreement between the California Department of Corrections and Rehabilitation and the City for conducting this project. The MOU is scheduled for approval by the SCWA Board of Directors on August 21, 2012.

The key provisions of the MOU are as follows:

- provides for a technical committee to select the consulting firm, review work products, and discuss report recommendations.

- provides for a cost sharing arrangement in which the total costs of the project will be apportioned based on equal sharing of administrative costs and splitting costs of technical evaluations by applicability to each participant.
- provides for the City to be the lead agency in administration of the Professional Services Agreement and for cost sharing of City staff costs for project management consisting of work of mutual benefit to the participating agencies.
- provides the option for participating agencies to share costs of follow-up work, based on the results of the sanitary survey.

The water purveyors developed a proposed approach for completing the American River Watershed Sanitary Survey Update for DPH approval. The approach includes utilizing information previously collected in the original American River Watershed Sanitary Survey and the first, second, and third update reports, optimizing use of information from watershed programs, providing updates on various sources of concern in the watershed, evaluating new data on sources and constituents of concern, determining required levels of treatment, and providing an updated set of recommendations. The study area for the American River Watershed Sanitary Survey will be the upper watershed upstream of Folsom Lake and the lower watershed from Folsom Lake to the confluence of the American and Sacramento rivers. The City submitted a description of this approach and draft report outline to DPH in July 2012.

MEMORANDUM OF UNDERSTANDING
REGARDING CONTRACTING AND APPORTIONMENT OF COSTS FOR
A SANITARY SURVEY UPDATE OF
THE AMERICAN RIVER WATERSHED AREA AND FOLLOW-UP ACTIVITIES

This Memorandum of Understanding (hereinafter "MOU") is entered into on _____, 2012, by and between California State Prison at Folsom (hereinafter "CSPF"), Carmichael Water District (hereinafter "CWD"), the City of Folsom (hereinafter "Folsom"), the City of Roseville (hereinafter "Roseville"), the City of Sacramento (hereinafter "Sacramento"), East Bay Municipal Utility District (hereinafter "EBMUD"), El Dorado Irrigation District (hereinafter "EID"), Golden State Water Company (hereinafter "GSWC"), Placer County Water Agency (hereinafter "PWCA"), Sacramento County Water Agency (hereinafter "SCWA"), and San Juan Water District (hereinafter "SJWD").

RECITALS

- A. The purpose of this MOU is to memorialize an agreement and understanding of the foregoing parties (hereafter referred to as the "parties") with respect to apportionment of costs for the 2013 sanitary survey update of the American River Watershed Area and potential optional follow-up activities based on the survey results.
- B. The parties each are required by the State of California Department of Health Services, Office of Drinking Water to comply with regulations passed in June 1991 requiring all water suppliers using surface water sources to complete a sanitary survey of their respective watershed(s) and to provide an update report every five years (see California Code of Regulations, Title 22, Division 4, Chapter 17, Article 7, §64665).
- C. This sanitary survey update also will be used to complete the watershed portion of the sanitary survey required for all surface water users as part of the Federal Interim Enhanced Surface Water Treatment Rule passed in December 1998 (see Federal Register, Vol. 63, No. 241, December 16, 1998, pp. 69478 et seq.).
- D. The parties believe it to be in their best interest, as well as the public's best interest, to enter into a contract with a consultant to conduct the sanitary survey update and to cooperatively and jointly share in the cost of this update.
- E. Some of the parties also may desire to share costs of various follow-up source water protection activities based on the results of the sanitary survey update.

NOW THEREFORE, in consideration of the mutual obligations set forth herein, the parties agree as follows:

1. **Technical Committee**: The parties hereby form a Technical Committee consisting of one representative of each of the parties, as identified on the list titled: "American River Watershed Sanitary Survey 2013 Update - Representatives", attached hereto as

Exhibit "A" and fully incorporated herein by this reference. A representative named herein may, from time to time or permanently, designate an individual to act on the representative's behalf. Meetings of the Technical Committee may be attended by anyone authorized by any representative.

The purpose of the Technical Committee will be: a) to assist in the solicitation and selection of one or more individuals or firms to prepare a sanitary survey update on the American River Watershed area; b) to share information related to the contract negotiations and the technical work for the sanitary survey; c) to review consultant progress reports and work products for the sanitary survey; d) to discuss consultant recommendations concerning the sanitary survey; e) to take such other action as the Technical Committee deems appropriate to further the interest of the parties related to the American River Watershed sanitary survey.

The Technical Committee shall meet quarterly, or as needed, at the City of Roseville Environmental Utilities Department office at 2005 Hilltop Circle, Roseville, California, the City of Folsom's office at 50 Natoma Street, Folsom California, Carmichael Water District's office at 7837 Fair Oaks Boulevard Carmichael, California, the City of Sacramento, Department of Utilities office at 1395 35th Avenue, Sacramento, California, and at other such times and places as the Technical Committee may agree.

2. Decisions of Technical Committee: A minimum of 5 representatives shall constitute a quorum which shall be necessary for the Technical Committee to take action at any meeting.

The parties expect and intend that decisions of the Technical Committee will be made by unanimous agreement of the representatives present at the meetings. In the event of disagreement over any decision, the representatives present will vote to resolve the disagreement, with each representative having one vote, and the vote of the majority of representatives present will be the decision of the committee.

If a decision cannot be made by consensus or majority vote, as described above, then a meeting will be held between the representatives listed in Exhibit "A" to resolve the disagreement.

3. Selection of Consultant: Sacramento will act as the lead agency in contracting with one or more individuals or firms to complete the sanitary survey. The one or more individuals or firms will be selected by the Technical Committee. Selection will be in accordance with standard City of Sacramento consultant selection procedures.
4. Watershed Sanitary Survey Cost Sharing, Invoices: Sacramento will be responsible for administering the contract for the consultant services. It is understood and agreed, however, that the contract with the individuals or firms will in part be a pass-through agreement, and the parties shall each pay a percentage of the contract amount, as specified in Exhibit B. The parties will also share project management costs incurred

by Sacramento for activities of mutual benefit to the Committee, such as contract management, agency coordination, and oversight of the consultant, in a total amount not to exceed \$8,000. The parties' percentage shares of the contract and Sacramento project management costs are set forth in Exhibit "B", attached hereto and incorporated by this reference.

The estimated project costs, including the project management costs described above, are approximately \$140,000. This MOU provides for an additional \$40,000 to provide a contingency for unforeseen additional costs and a reasonable range of potential consultant costs. Any costs funded by such contingency also shall be paid in accordance with the percentage shares specified in Exhibit B, unless a portion of such contingency is being used to fund a supplemental task requested by, and for the benefit of, less than all of the agencies listed on Exhibit B.

Sacramento will invoice CSPF, CWD, Folsom, Roseville, EBMUD, EID, GSWC, PCWA, SCWA, and SJWD for consultant and project management costs. The parties within 45 days of the receipt of said invoice(s) shall remit their percentage share of said invoice(s) to reimburse Sacramento for payment of the consultant and project management costs. Sacramento will make all reasonable efforts to provide said invoices on a quarterly basis.

Copies of consultant invoices will be distributed to the Technical Committee representatives at the time of invoicing for partner agency cost share, or upon request at any time. In the event one or more parties believe an invoice should not be paid in whole or in part, the dispute shall be resolved by the Technical Committee as set forth herein.

The parties agree to exercise good faith and diligence in the resolution of any disputed invoice amounts; provided, however, that notwithstanding any provision contained herein except Section 5 of this MOU, Sacramento shall be reimbursed by each of the other parties for their respective percentage share of any and all money ultimately paid to the consultant by Sacramento, as contemplated in Section 4 of this MOU and subject to Section 5.

The parties' percentage shares set forth in Exhibit B may only be changed by amendment to this MOU as provided in Section 9, below, except with respect to the allocation of costs for supplemental tasks requested by, and for the benefit of, less than all of the agencies listed on Exhibit B.

5. Price Ceiling for Watershed Sanitary Survey Costs: In no case shall the total value of costs shared pursuant to Section 4 of this MOU exceed \$ 180,000, except by amendment of this MOU. This price ceiling shall not apply to costs for supplemental tasks requested by, and for the benefit of, less than all of the agencies listed on Exhibit B. The Scope, Schedule, and Budget Summary is set forth in Exhibit C, attached hereto and incorporated by this reference.

6. Additional Cost Sharing: Based on the results of the Update, the parties may wish to share in the costs of follow-up joint source water protection activities. Participation in such activities shall be at the option of each party, and for participating parties such activities shall be conducted and costs shall be shared as provided in this Section 6. For these activities, Sacramento will contract with the consultant(s) performing such activities and will provide project management and direction to such consultant(s), with input from the participating parties' Technical Committee representatives. Sacramento shall provide the participating parties a proposed budget for these activities on an annual basis. A party's participation in such activities shall be confirmed in writing by the participating party's Technical Committee representative after receipt of the proposed annual budget. The costs of each such activity will be split evenly among the participating agencies that benefit from such activity, as provided below:

- Watershed activities of mutual interest: benefits all parties to this MOU
- Watershed activities on the Lower American River: benefits CWD, Sacramento, EBMUD, GSWC, and SCWA
- Watershed activities that benefit EBMUD and SCWA.

Notwithstanding any other provision of this MOU, no participating party shall be required to pay more than \$14,000 during a fiscal year for its share of all additional activities under this Section 6, except as may be otherwise agreed in writing by each such participating party. In addition, if requested by Sacramento, the parties participating in an additional activity will each pay an equal share of the cost of Sacramento's project management services for such activity, provided that such cost share shall not exceed \$500 per participating party for any given additional activity, except as may be otherwise agreed in writing by each such participating party.

Unspent funds from an additional activity may be applied to the following year's invoices, rolled over to use in the next fiscal year, or refunded to the partner agency.

Sacramento will invoice the parties participating in such additional activities for each party's share of the applicable consultant and project management costs. Within 45 days of the receipt of said invoice(s), each participating party shall remit its payment of the invoice, to reimburse Sacramento for payment of the consultant and project management costs. Sacramento will make all reasonable efforts to provide the invoices on a quarterly basis, provided that a participating party shall have the option of making one advance payment for the entire calendar year.

Copies of consultant invoices will be distributed to the participating parties' Technical Committee representatives on a quarterly basis, or upon request at any time. In the event one or more participating parties believe an invoice should not be paid in whole

or in part, the dispute shall be resolved by the participating parties' Technical Committee representatives.

The parties agree to exercise good faith and diligence in the resolution of any disputed invoice amounts; provided, however, that notwithstanding any provision contained herein, Sacramento shall be reimbursed by each of the other participating parties for their respective share of any and all money ultimately paid to the consultant(s) by Sacramento for the performance of additional activities and project management costs incurred by Sacramento, as contemplated by Section 6 of this MOU.

7. Notices: Any invoice, payment, notice or other written communication related to this MOU will be provided to those representatives identified on Exhibit "A".
8. Term of MOU: This MOU shall be effective as of the date it is signed by all parties and shall remain in effect until a new MOU is in place for the 2018 update to the American River watershed sanitary survey, all services and contracts covered by this MOU have been completed and performed and all payments required under this MOU have been made, or until terminated by the mutual written agreement of all parties, whichever occurs first.
9. Amendments: Any amendments to this MOU must be in writing and executed by all parties.
10. Counterparts: This MOU may be executed by the parties in separate counterparts, each of which when so executed and delivered to Sacramento shall be an original, but all such counterparts shall together constitute but one and the same instrument. After signature pages are returned to Sacramento, copies of the complete MOU will be mailed to each party.
11. General Provisions: Each party understands and agrees that there is no agency or joint venture relationship between the parties. It is further understood and agreed by the parties that notwithstanding anything contained herein, the employees of each party shall continue to be entirely and exclusively under the direction, supervision and control of the employing party.

With the exception of the agreed cost sharing of Sacramento project management costs, each party understands and agrees that any internal, in-house or administrative costs or expenses incurred by any party related to that party's obligations under this MOU shall be the sole responsibility of the party incurring said costs and expenses.

The parties understand and agree that this MOU creates rights and obligations solely between the parties and is not intended to benefit any other party. No provision of this MOU shall in any way inure to the benefit of any third person so as to constitute any such third-person as a third-party beneficiary of this MOU or any of its items or

conditions, or otherwise give rise to any cause of action in any person not a party hereto.

If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

The waiver by any party to this MOU of any requirements, condition or provision of this MOU shall not be deemed a waiver of any subsequent breach of that or any other requirement, condition or provision of this MOU.

The parties represent that the undersigned individuals executing this MOU on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind said parties to the obligations set forth herein.

This instrument and any attachments hereto constitute the entire MOU between the parties concerning the subject matter hereof.

CALIFORNIA STATE PRISON AT FOLSOM (CSPF)

Date: _____

By: _____
Title

ATTEST:

APPROVED AS TO FORM:

Title

Title

CARMICHAEL WATER DISTRICT (CWD)

Date: _____

By: _____

Mark McClintock
Production Superintendent

ATTEST:

Steve Nugent, Secretary

CITY OF FOLSOM (Folsom)

Date: _____

By: _____
Evert W. Palmer, City Manager

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

Richard J. Lorenz
Public Works - Utilities Director

Bruce C. Cline, City Attorney

ATTEST:

Christa Saunders, City Clerk

CITY OF ROSEVILLE (Roseville)

Date: _____

Ray Kerridge, City Manager

APPROVED AS TO SUBSTANCE:

Derrick Whitehead
Environmental Utilities Director

ATTEST:

APPROVED AS TO FORM:

Sonia Orozco, City Clerk

Brita J. Bayless, City Attorney

CITY OF SACRAMENTO (Sacramento)

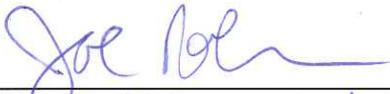
Date: _____

By: _____
Title

ATTEST:

APPROVED AS TO FORM:

Title



Title Senior Deputy City Attorney

EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD)

Date: _____

By: _____
Title

ATTEST:

APPROVED AS TO FORM:

By: _____
for the Office of the General Counsel

EL DORADO IRRIGATION DISTRICT (EID)

Date: _____

By: _____
Title

GOLDEN STATE WATER COMPANY (GSWC)

Date: _____

By: _____
Title

ATTEST:

Title

PLACER COUNTY WATER AGENCY (PCWA)

By: _____
Chair, Board of Directors

Date: _____

ATTEST:

Clerk, Board of Directors

SACRAMENTO COUNTY WATER AGENCY (SCWA)

Date: _____

By: _____
Title

ATTEST:

APPROVED AS TO FORM:

Title

Title

SAN JUAN WATER DISTRICT (SJWD)

Date: _____

By: _____
General Manager

ATTEST:

Title

Exhibit A

American River Watershed Sanitary Survey 2013 Update - Representatives

Mr. Paul T. Schubert
District Manager
Golden State Water Company
3035 Prospect Park Dr., Suite 60
Rancho Cordova, CA 95670
(916) 853-3636/FAX (916) 852-0171

Mr. Karim E. Noujaim
Associate Warden - Business Services
POB 910
Folsom, CA 95763
(916) 985-2561/FAX (916) 351-3000

Mr. Steve Nugent
General Manager
Carmichael Water District
7837 Fair Oaks Blvd
Carmichael, CA 95608
(916) 483-2452/FAX (916) 483-5509

Mr. Richard J. Lorenz
Public Works - Utilities Director
City of Folsom
50 Natoma Street
Folsom, CA 95630
(916) 355-7268/FAX (916) 351-5603

Mr. Derrick Whitehead
Director of Environmental Utilities
City of Roseville
Environmental Utilities Department
2005 Hilltop Circle
Roseville, CA 95747
(916) 774-5330/FAX (916) 774-5690

Mr. Bill Busath
Interim Engineering Manager
City of Sacramento
Department of Utilities
1395 35th Avenue
Sacramento, CA 95822
(916) 808-1434/FAX (916) 808-1497

Ms. Eileen White, Operations and Maintenance
Department Manager
East Bay Municipal Utility District
POB 24055, MS 606
Oakland, CA 94607-4240
(510)287-1149/FAX (510) 287-1232

Mr. Jim Abercrombie
General Manager
El Dorado Irrigation District
2890 Mosquito Road
Placerville, CA 95667
(530) 622-4513/FAX (530) 622-1195

Mr. David Breninger
General Manager
Placer County Water Agency
POB 6570
Auburn, CA 95604
(530) 823-4859/FAX (530) 823-4960

Mr. Michael L. Peterson
Director
Sacramento County Water Agency
827 7th Street, Room 301
Sacramento, CA 95816
(916) 874-6851/FAX (916) 874-8693

Ms. Shauna Lorange
General Manager
San Juan Water District
9935 Auburn-Folsom Road
Granite Bay, CA 95746
(916) 791-0115/FAX (916) 791-7361

Exhibit B

American River Watershed Sanitary Survey 2013 Update
Watershed Sanitary Survey Cost Sharing

Participating Agencies	Cost Share (%)			Not to Exceed Amount for Sharing Costs of Watershed Sanitary Survey
	Project Management (Consultant and Sacramento), and Watershed Evaluation, Water Quality Review, and Report Preparation (Consultant) (a)	Compliance Evaluation (Consultant) (b)	Supplemental Tasks (c)	
CSPF	9.09	9.09		\$16,000
CWD	9.09	9.09		\$16,000
City of Folsom	9.09	9.09		\$16,000
City of Roseville	9.09	9.09		\$16,000
City of Sacramento	9.1	9.1		\$16,000
EBMUD	9.09	---		\$15,000
EID	9.09	27.27		\$22,000
GSWC	9.09	9.09		\$16,000
PCWA	9.09	9.09		\$16,000
SCWA	9.09	---		\$15,000
SJWD	9.09	9.09		\$16,000

Footnotes:

- (a) Equal share for consultant costs for project management, watershed evaluation, water quality review, and report preparation, and for City of Sacramento project management costs.
- (b) Compliance evaluation costs split between nine participating agencies with intakes on the American River, weighted by number of intakes evaluated.
- (c) Supplemental tasks to be split among appropriate participating agencies as follows:
 - Equal share for consulting costs for topics addressed in footnote (a), above.
 - Cost per applicable agency for compliance evaluation, as specified in note (b) above.
 - Additional funding may be provided by specific participating agencies, for associated services such as additional copies of reports, special presentation of study results, and other related services.

Exhibit C
 American River Watershed Sanitary Survey 2013 Update
 Scope, Schedule, and Budget Summary

Item	Task	Schedule (a), (b)	Not to Exceed Amount Per Partner
A	American River Watershed Sanitary Survey 2013 Update	August 2012-approximately April 2014	See Exhibit B
B	American River Joint Source Water Protection Program (JSWP) and Keep Our Waters Clean (KOWC) FY2014	July 2013-June 2014	\$14,000 (c)
C	American River JSWP and KOWC FY2015	July 2014-June 2015	\$14,000 (c)
D	American River JSWP and KOWC FY2016	July 2015-June 2016	\$14,000 (c)
E	American River JSWP and KOWC FY2017	July 2016-June 2017	\$14,000 (c)
F	American River JSWP and KOWC FY2018	July 2017-June 2018	\$14,000 (c)

Footnotes:

- (a) Additional years for the additional activities will be covered by this MOU until a new MOU is in place for the 2018 update to the American River Watershed Sanitary Survey.
- (b) Annual source water protection work may need to be completed after June of each year.
- (c) Plus cost share of program management at option of City of Sacramento.
 EBMUD's cost share for the entire term of the MOU is not to exceed \$15,000 except as may be otherwise agreed in writing by EBMUD.



AGREEMENT NUMBER 5600003160
REGISTRATION NUMBER

- This Agreement is entered into between the State Agency and the Contractor named below:
 STATE AGENCY'S NAME
CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
 CONTRACTOR'S NAME
City of Sacramento, Department of Utilities
- Agreement is: **July 1, 2012 or upon approval, whichever shall occur last, through June 30, 2017**
- The maximum amount of this Agreement is: **\$35,000.00**
Thirty-Five Thousand Dollars and No Cents
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	2 pages
Exhibit A-1 – Memorandum of Understanding	7 page
Exhibit A-2 – List of Representatives	1 page
Exhibit A-3 – Survey Cost Sharing	1 page
Exhibit A-4 – Schedule and Budget Summary	1 page
Exhibit B – Budget Details and Payment Provisions	1 page
Exhibit B-1 – Contractor Rate Request	1 page
Exhibit B-2 – Rate Sheet	1 page
Exhibit C* – General Terms and Conditions	GTC 610
Exhibit D – Special Terms and Conditions for Public Entity Agreements	13 pages

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

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

CONTRACTOR		California Department of General Services Use Only APPROVED AS TO FORM CITY ATTORNEY
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) City of Sacramento, Department of Utilities		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS 1395 35th Avenue, Sacramento, CA 95822 Telephone (916) 808-1424		
STATE OF CALIFORNIA		
AGENCY NAME California Department of Corrections and Rehabilitation		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING LINDA PATTERSON, Chief, Institution Contracts Section		
ADDRESS 10000 Goethe Road, Suite C-1, Sacramento, CA 95827		

APPROVED AS TO FORM:



CITY ATTORNEY



DEPARTMENT
OF UTILITIES

ENGINEERING
SERVICES DIVISION

CITY OF SACRAMENTO
CALIFORNIA

1395 35TH AVENUE
SACRAMENTO, CA
95822-2911

PH 916-808-1400
FAX 916-808-1497/1498

April 26, 2012
120129:EC

To: Gary Brusatori, Chief Engineer I, California State Prison at Folsom
From: Elissa Callman, Senior Engineer, City of Sacramento Department of
Utilities

SUBJECT: SCOPE OF WORK AND ESTIMATE OF COST SHARE FOR 2013 AMERICAN
RIVER WATERSHED SANITARY SURVEY UPDATE

The purpose of this letter is to provide the project scope and a not to exceed amount for Folsom State Prison's share of the 2013 American River Watershed Sanitary Survey Update (Update).

The project will include cost share of consulting firm services and City of Sacramento project management services, in a total project amount not to exceed \$180,000 per the Memorandum of Understanding (MOU) Regarding Contracting and Apportionment of Costs for a Sanitary Survey Update of the American River Watershed Area and Follow-up Activities, currently being approved by the partner agencies.

The project scope includes preparation of a watershed sanitary survey update report, including collection and evaluation of water quality data from the participating water utilities and ambient monitoring programs, review of watershed contaminant sources and management programs, treatment plant regulatory compliance evaluation, and preparation of findings and recommendations. Technical committee meetings will be conducted for the purpose of providing progress on the project, to collect information, to present preliminary results, and to discuss draft recommendations. The project also includes a presentation to the California Department of Public Health (CDPH) and the participating water agencies on the final report.

We anticipate that two hard copies and an electronic copy of the report will be provided to each participating agency; the desired number of copies will be confirmed with the partner agencies during finalization of the consulting firm's scope of work, after the selection process is completed. Please find attached the draft report outline, which will be transmitted to CDPH on behalf of the participating agencies.

Based on the cost share allocation and not to exceed amount in the MOU, Folsom State Prison's share of the total project cost will be \leq \$16,000. Based on the Engineer's estimate of \$140,000, Folsom State Prison's share of the total project cost will be approximately \leq \$13,000.

City of Sacramento, Dept. of Utilities
Department of Corrections and
Rehabilitation (CDCR)
SCOPE OF WORK

Agreement No. 5600003160
Exhibit A

The MOU also provides the opportunity for partner agencies to share in the costs of follow-up joint source water protection activities, based on the results of the Update. Participation in such activities shall be at the option of each party.

Thank you for partnering on this project. If you have any questions or need further information, please do not hesitate to contact me at 808-1424.

Cc: File – WQ.SOW.AR.01

MEMORANDUM OF UNDERSTANDING
REGARDING CONTRACTING AND APPORTIONMENT OF COSTS FOR
A SANITARY SURVEY UPDATE OF
THE AMERICAN RIVER WATERSHED AREA AND FOLLOW-UP ACTIVITIES

This Memorandum of Understanding (hereinafter "MOU") is entered into on _____, 2012, by and between California State Prison at Folsom (hereinafter "CSPF"), Carmichael Water District (hereinafter "CWD"), the City of Folsom (hereinafter "Folsom"), the City of Roseville (hereinafter "Roseville"), the City of Sacramento (hereinafter "Sacramento"), East Bay Municipal Utility District (hereinafter "EBMUD"), El Dorado Irrigation District (hereinafter "EID"), Golden State Water Company (hereinafter "GSWC"), Placer County Water Agency (hereinafter "PWCA"), Sacramento County Water Agency (hereinafter "SCWA"), and San Juan Water District (hereinafter "SJWD").

RECITALS

- A. The purpose of this MOU is to memorialize an agreement and understanding of the foregoing parties (hereafter referred to as the "parties") with respect to apportionment of costs for the 2013 sanitary survey update of the American River Watershed Area and potential optional follow-up activities based on the survey results.
- B. The parties each are required by the State of California Department of Health Services, Office of Drinking Water to comply with regulations passed in June 1991 requiring all water suppliers using surface water sources to complete a sanitary survey of their respective watershed(s) and to provide an update report every five years (see California Code of Regulations, Title 22, Division 4, Chapter 17, Article 7, §64665).
- C. This sanitary survey update also will be used to complete the watershed portion of the sanitary survey required for all surface water users as part of the Federal Interim Enhanced Surface Water Treatment Rule passed in December 1998 (see Federal Register, Vol. 63, No. 241, December 16, 1998, pp. 69478 et seq.).
- D. The parties believe it to be in their best interest, as well as the public's best interest, to enter into a contract with a consultant to conduct the sanitary survey update and to cooperatively and jointly share in the cost of this update.
- E. Some of the parties also may desire to share costs of various follow-up source water protection activities based on the results of the sanitary survey update.

NOW THEREFORE, in consideration of the mutual obligations set forth herein, the parties agree as follows:

1. Technical Committee: The parties hereby form a Technical Committee consisting of one representative of each of the parties, as identified on the list titled: "American River Watershed Sanitary Survey 2013 Update - Representatives", attached hereto as

Exhibit "A" and fully incorporated herein by this reference. A representative named herein may, from time to time or permanently, designate an individual to act on the representative's behalf. Meetings of the Technical Committee may be attended by anyone authorized by any representative.

The purpose of the Technical Committee will be: a) to assist in the solicitation and selection of one or more individuals or firms to prepare a sanitary survey update on the American River Watershed area; b) to share information related to the contract negotiations and the technical work for the sanitary survey; c) to review consultant progress reports and work products for the sanitary survey; d) to discuss consultant recommendations concerning the sanitary survey; e) to take such other action as the Technical Committee deems appropriate to further the interest of the parties related to the American River Watershed sanitary survey.

The Technical Committee shall meet quarterly, or as needed, at the City of Roseville Environmental Utilities Department office at 2005 Hilltop Circle, Roseville, California, the City of Folsom's office at 50 Natoma Street, Folsom California, Carmichael Water District's office at 7837 Fair Oaks Boulevard Carmichael, California, the City of Sacramento, Department of Utilities office at 1395 35th Avenue, Sacramento, California, and at other such times and places as the Technical Committee may agree.

2. Decisions of Technical Committee: A minimum of 5 representatives shall constitute a quorum which shall be necessary for the Technical Committee to take action at any meeting.

The parties expect and intend that decisions of the Technical Committee will be made by unanimous agreement of the representatives present at the meetings. In the event of disagreement over any decision, the representatives present will vote to resolve the disagreement, with each representative having one vote, and the vote of the majority of representatives present will be the decision of the committee.

If a decision cannot be made by consensus or majority vote, as described above, then a meeting will be held between the representatives listed in Exhibit "A" to resolve the disagreement.

3. Selection of Consultant: Sacramento will act as the lead agency in contracting with one or more individuals or firms to complete the sanitary survey. The one or more individuals or firms will be selected by the Technical Committee. Selection will be in accordance with standard City of Sacramento consultant selection procedures.
4. Watershed Sanitary Survey Cost Sharing, Invoices: Sacramento will be responsible for administering the contract for the consultant services. It is understood and agreed, however, that the contract with the individuals or firms will in part be a pass-through agreement, and the parties shall each pay a percentage of the contract amount, as specified in Exhibit B. The parties will also share project management costs incurred

by Sacramento for activities of mutual benefit to the Committee, such as contract management, agency coordination, and oversight of the consultant, in a total amount not to exceed \$8,000. The parties' percentage shares of the contract and Sacramento project management costs are set forth in Exhibit "B", attached hereto and incorporated by this reference.

The estimated project costs, including the project management costs described above, are approximately \$140,000. This MOU provides for an additional \$40,000 to provide a contingency for unforeseen additional costs and a reasonable range of potential consultant costs. Any costs funded by such contingency also shall be paid in accordance with the percentage shares specified in Exhibit B, unless a portion of such contingency is being used to fund a supplemental task requested by, and for the benefit of, less than all of the agencies listed on Exhibit B.

Sacramento will invoice CSPF, CWD, Folsom, Roseville, EBMUD, EID, GSWC, PCWA, SCWA, and SJWD for consultant and project management costs. The parties within 45 days of the receipt of said invoice(s) shall remit their percentage share of said invoice(s) to reimburse Sacramento for payment of the consultant and project management costs. Sacramento will make all reasonable efforts to provide said invoices on a quarterly basis.

Copies of consultant invoices will be distributed to the Technical Committee representatives at the time of invoicing for partner agency cost share, or upon request at any time. In the event one or more parties believe an invoice should not be paid in whole or in part, the dispute shall be resolved by the Technical Committee as set forth herein.

The parties agree to exercise good faith and diligence in the resolution of any disputed invoice amounts; provided, however, that notwithstanding any provision contained herein except Section 5 of this MOU, Sacramento shall be reimbursed by each of the other parties for their respective percentage share of any and all money ultimately paid to the consultant by Sacramento, as contemplated in Section 4 of this MOU and subject to Section 5.

The parties' percentage shares set forth in Exhibit B may only be changed by amendment to this MOU as provided in Section 9, below, except with respect to the allocation of costs for supplemental tasks requested by, and for the benefit of, less than all of the agencies listed on Exhibit B.

5. Price Ceiling for Watershed Sanitary Survey Costs: In no case shall the total value of costs shared pursuant to Section 4 of this MOU exceed \$ 180,000, except by amendment of this MOU. This price ceiling shall not apply to costs for supplemental tasks requested by, and for the benefit of, less than all of the agencies listed on Exhibit B. The Scope, Schedule, and Budget Summary is set forth in Exhibit C, attached hereto and incorporated by this reference.

6. Additional Cost Sharing: Based on the results of the Update, the parties may wish to share in the costs of follow-up joint source water protection activities. Participation in such activities shall be at the option of each party, and for participating parties such activities shall be conducted and costs shall be shared as provided in this Section 6. For these activities, Sacramento will contract with the consultant(s) performing such activities and will provide project management and direction to such consultant(s), with input from the participating parties' Technical Committee representatives. Sacramento shall provide the participating parties a proposed budget for these activities on an annual basis. A party's participation in such activities shall be confirmed in writing by the participating party's Technical Committee representative after receipt of the proposed annual budget. The costs of each such activity will be split evenly among the participating agencies that benefit from such activity, as provided below:

- Watershed activities of mutual interest: benefits all parties to this MOU
- Watershed activities on the Lower American River: benefits CWD, Sacramento, EBMUD, GSWC, and SCWA
- Watershed activities that benefit EBMUD and SCWA.

Notwithstanding any other provision of this MOU, no participating party shall be required to pay more than \$14,000 during a fiscal year for its share of all additional activities under this Section 6, except as may be otherwise agreed in writing by each such participating party. In addition, if requested by Sacramento, the parties participating in an additional activity will each pay an equal share of the cost of Sacramento's project management services for such activity, provided that such cost share shall not exceed \$500 per participating party for any given additional activity, except as may be otherwise agreed in writing by each such participating party.

Unspent funds from an additional activity may be applied to the following year's invoices, rolled over to use in the next fiscal year, or refunded to the partner agency.

Sacramento will invoice the parties participating in such additional activities for each party's share of the applicable consultant and project management costs. Within 45 days of the receipt of said invoice(s), each participating party shall remit its payment of the invoice, to reimburse Sacramento for payment of the consultant and project management costs. Sacramento will make all reasonable efforts to provide the invoices on a quarterly basis, provided that a participating party shall have the option of making one advance payment for the entire calendar year.

Copies of consultant invoices will be distributed to the participating parties' Technical Committee representatives on a quarterly basis, or upon request at any time. In the event one or more participating parties believe an invoice should not be paid in whole

or in part, the dispute shall be resolved by the participating parties' Technical Committee representatives.

The parties agree to exercise good faith and diligence in the resolution of any disputed invoice amounts; provided, however, that notwithstanding any provision contained herein, Sacramento shall be reimbursed by each of the other participating parties for their respective share of any and all money ultimately paid to the consultant(s) by Sacramento for the performance of additional activities and project management costs incurred by Sacramento, as contemplated by Section 6 of this MOU.

7. Notices: Any invoice, payment, notice or other written communication related to this MOU will be provided to those representatives identified on Exhibit "A".
8. Term of MOU: This MOU shall be effective as of the date it is signed by all parties and shall remain in effect until a new MOU is in place for the 2018 update to the American River watershed sanitary survey, all services and contracts covered by this MOU have been completed and performed and all payments required under this MOU have been made, or until terminated by the mutual written agreement of all parties, whichever occurs first.
9. Amendments: Any amendments to this MOU must be in writing and executed by all parties.
10. Counterparts: This MOU may be executed by the parties in separate counterparts, each of which when so executed and delivered to Sacramento shall be an original, but all such counterparts shall together constitute but one and the same instrument. After signature pages are returned to Sacramento, copies of the complete MOU will be mailed to each party.
11. General Provisions: Each party understands and agrees that there is no agency or joint venture relationship between the parties. It is further understood and agreed by the parties that notwithstanding anything contained herein, the employees of each party shall continue to be entirely and exclusively under the direction, supervision and control of the employing party.

With the exception of the agreed cost sharing of Sacramento project management costs, each party understands and agrees that any internal, in-house or administrative costs or expenses incurred by any party related to that party's obligations under this MOU shall be the sole responsibility of the party incurring said costs and expenses.

The parties understand and agree that this MOU creates rights and obligations solely between the parties and is not intended to benefit any other party. No provision of this MOU shall in any way inure to the benefit of any third person so as to constitute any such third-person as a third-party beneficiary of this MOU or any of its items or

conditions, or otherwise give rise to any cause of action in any person not a party hereto.

If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

The waiver by any party to this MOU of any requirements, condition or provision of this MOU shall not be deemed a waiver of any subsequent breach of that or any other requirement, condition or provision of this MOU.

The parties represent that the undersigned individuals executing this MOU on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind said parties to the obligations set forth herein.

This instrument and any attachments hereto constitute the entire MOU between the parties concerning the subject matter hereof.

CALIFORNIA STATE PRISON AT FOLSOM (CSPF)

Date: May 11, 2012

By: 
4/ Title Linda Patterson, Chief
Institution Contracts Section

ATTEST:

APPROVED AS TO FORM:

Title

Title

American River Watershed Sanitary Survey 2013 Update - Representatives

Mr. Paul T. Schubert
District Manager
Golden State Water Company
3035 Prospect Park Dr., Suite 60
Rancho Cordova, CA 95670
(916) 853-3636/FAX (916) 852-0171

Mr. Karim E. Noujaim
Associate Warden - Business Services
POB 910
Folsom, CA 95763
(916) 985-2561/FAX (916) 351-3000

Mr. Steve Nugent
General Manager
Carmichael Water District
7837 Fair Oaks Blvd
Carmichael, CA 95608
(916) 483-2452/FAX (916) 483-5509

Mr. Richard J. Lorenz
Public Works - Utilities Director
City of Folsom
50 Natoma Street
Folsom, CA 95630
(916) 355-7268/FAX (916) 351-5603

Mr. Derrick Whitehead
Director of Environmental Utilities
City of Roseville
Environmental Utilities Department
2005 Hilltop Circle
Roseville, CA 95747
(916) 774-5330/FAX (916) 774-5690

Mr. Bill Busath
Interim Engineering Manager
City of Sacramento
Department of Utilities
1395 35th Avenue
Sacramento, CA 95822
(916) 808-1434/FAX (916) 808-1497

Ms. Eileen White, Operations and Maintenance
Department Manager
East Bay Municipal Utility District
POB 24055, MS 606
Oakland, CA 94607-4240
(510)287-1149/FAX (510) 287-1232

Mr. Jim Abercrombie
General Manager
El Dorado Irrigation District
2890 Mosquito Road
Placerville, CA 95667
(530) 622-4513/FAX (530) 622-1195

Mr. David Breninger
General Manager
Placer County Water Agency
POB 6570
Auburn, CA 95604
(530) 823-4859/FAX (530) 823-4960

Mr. Michael L. Peterson
Director
Sacramento County Water Agency
827 7th Street, Room 301
Sacramento, CA 95816
(916) 874-6851/FAX (916) 874-8693

Ms. Shauna Lorange
General Manager
San Juan Water District
9935 Auburn-Folsom Road
Granite Bay, CA 95746
(916) 791-0115/FAX (916) 791-7361

American River Watershed Sanitary Survey 2013 Update
 Watershed Sanitary Survey Cost Sharing

Participating Agencies	Cost Share (%)			Not to Exceed Amount for Sharing Costs of Watershed Sanitary Survey
	Project Management (Consultant and Sacramento), and Watershed Evaluation, Water Quality Review, and Report Preparation (Consultant) (a)	Compliance Evaluation (Consultant) (b)	Supplemental Tasks (c)	
CSPF	9.09	9.09		\$16,000
CWD	9.09	9.09		\$16,000
City of Folsom	9.09	9.09		\$16,000
City of Roseville	9.09	9.09		\$16,000
City of Sacramento	9.1	9.1		\$16,000
EBMUD	9.09	---		\$15,000
EID	9.09	27.27		\$22,000
GSWC	9.09	9.09		\$16,000
PCWA	9.09	9.09		\$16,000
SCWA	9.09	---		\$15,000
SJWD	9.09	9.09		\$16,000

Footnotes:

- (a) Equal share for consultant costs for project management, watershed evaluation, water quality review, and report preparation, and for City of Sacramento project management costs.
- (b) Compliance evaluation costs split between nine participating agencies with intakes on the American River, weighted by number of intakes evaluated.
- (c) Supplemental tasks to be split among appropriate participating agencies as follows:
 - Equal share for consulting costs for topics addressed in footnote (a), above.
 - Cost per applicable agency for compliance evaluation, as specified in note (b) above.
 - Additional funding may be provided by specific participating agencies, for associated services such as additional copies of reports, special presentation of study results, and other related services.

American River Watershed Sanitary Survey 2013 Update
 Scope, Schedule, and Budget Summary

Item	Task	Schedule (a), (b)	Not to Exceed Amount Per Partner
A	American River Watershed Sanitary Survey 2013 Update	August 2012-approximately April 2014	See Exhibit A-3
B	American River Joint Source Water Protection Program (JSWP) and Keep Our Waters Clean (KOWC) FY2014	July 2013-June 2014	\$14,000 (c)
C	American River JSWP and KOWC FY2015	July 2014-June 2015	\$14,000 (c)
D	American River JSWP and KOWC FY2016	July 2015-June 2016	\$14,000 (c)
E	American River JSWP and KOWC FY2017	July 2016-June 2017	\$14,000 (c)
F	American River JSWP and KOWC FY2018	July 2017-June 2018	\$14,000 (c)

Footnotes:

- (a) Additional years for the additional activities will be covered by this MOU until a new MOU is in place for the 2018 update to the American River Watershed Sanitary Survey.
- (b) Annual source water protection work may need to be completed after June of each year.
- (c) Plus cost share of program management at option of City of Sacramento.
 EBMUD's cost share for the entire term of the MOU is not to exceed \$15,000 except as may be otherwise agreed in writing by EBMUD.

1. **Invoicing and Payment**

- a. For services satisfactorily rendered, and upon receipt and approval of Contractor's invoices, the State agrees to compensate the Contractor in accordance with Exhibit B-1, Contractor Rate Request and the rates specified herein on Exhibit B-2, Rate Sheet, which are attached hereto and made a part of this Agreement.
- b. Invoices shall include the Agreement Number, Purchase Order Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

California Department of Corrections and Rehabilitation (CDCR)
Sacramento Regional Accounting Office
Attention: Accounts Payable B
P.O. Box 187016
Sacramento, CA 95818-7016

2. **Budget Contingency Clause**

- a. It is mutually agreed that if the California State Budget Act for the current fiscal year and/or any subsequent fiscal years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor, or to furnish any other considerations under this Agreement, and Contractor shall not be obligated to perform any provisions of this Agreement.
- b. If funding for the purposes of this program is reduced or deleted for any fiscal year by the California State Budget Act, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to Contractor to reflect the reduced amount.

3. **Prompt Payment Clause**

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927. Payment to small/micro businesses shall be made in accordance with and within the time specified in Chapter 4.5, Government Code 927 et seq.

4. **Subcontractors**

Nothing contained in this Agreement, or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of Contractor's responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

AMERICAN RIVER WATERSHED SURVEY

The contractor hereby agrees to provide all labor, materials, supplies, licenses, permits, equipment and transportation necessary to perform all services required for the foregoing titled work in accordance with the Scope of Work, all Terms and Conditions, and Disabled Veteran Business Enterprise (DVBE) requirements, if applicable, at the rates set forth by the contractor in Exhibit B-2. Any and all services performed outside the scope of this Agreement shall be at the sole risk and expense of the contractor.

Rates must be provided for all services listed in Exhibit B-2. Exhibit B-2 shall remain in force for the stated term of this Agreement and shall include every item of expense, direct and indirect, including any taxes incidental to the specified rates. Any quantities listed on Exhibit B-2 are CDCR's estimates only. The State does not expressly or by implication agree that the actual amount of work will correspond therewith and reserves the right to omit portions of the work as may be deemed necessary or advisable by the State.

SMALL BUSINESS ENTERPRISE

Current law encourages state departments to first consider a Small Business Enterprise (Small)/Microbusiness Enterprise (Micro) for contracting opportunities. The California Department of Corrections and Rehabilitation (CDCR) is committed to supporting Small/Micro business participation in state contracting and seeks to use certified Small/Micro businesses whenever possible.

For certification information, contact the Department of General Services, Office of Small Business and Disabled Veteran Business Enterprise Certification (OSDC) by telephone at (916) 375-4940 or access the OSDC Internet website at www.pd.dgs.ca.gov/smbus. The CDCR asks that you encourage any subcontractor(s) and/or consultant(s) that are not currently certified as a Small/Micro business, that you believe may meet the certification requirements, to become certified through the DGS, OSDC. Please provide those subcontractor(s)/consultant(s) with the OSDC contact and certification information provided above.

To ensure correct reporting of Small/Micro business and large business participation by CDCR, the contractor shall complete the information section below.

<p>PRIME CONTRACTOR NAME: _____</p> <p><input type="checkbox"/> I am a Small Business Enterprise. My DGS reference number is: _____</p> <p><input type="checkbox"/> I am a Microbusiness Enterprise. My DGS reference number is: _____</p> <p><input type="checkbox"/> I am a large business.</p> <p>NOTE: IF YOU ARE A CERTIFIED SMALL/MICRO BUSINESS ENTERPRISE AND FAIL TO COMPLETE THIS SECTION, YOUR BUSINESS WILL BE CLASSIFIED AS A LARGE BUSINESS.</p>
--

AMERICAN RIVER WATERSHED SANITARY SURVEY 2013 UPDATE
CONTRACT PERIOD: JULY 1, 2012 THROUGH JUNE 30, 2017

Fiscal Year	Total
2012/2013	\$ 16,000.00
2013/2014	\$ 10,000.00
2014/2015	\$ 3,000.00
2015/2016	\$ 3,000.00
2016/2017	\$ 3,000.00
	\$ 35,000.00

EXHIBIT C

GENERAL TERMS AND CONDITIONS

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

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

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

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

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

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

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

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

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

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

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

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

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

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

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

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

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

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

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

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

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

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

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

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

20. LOSS LEADER:

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

1. Contract Disputes with Public Entities (Supersedes provision number 6, Disputes, of Exhibit C)

As a condition precedent to Contractor's right to institute and pursue litigation or other legally available dispute resolution process, if any, Contractor agrees that all disputes and/or claims of Contractor arising under or related to the Agreement shall be resolved pursuant to the following processes. Contractor's failure to comply with said dispute resolution procedures shall constitute a failure to exhaust administrative remedies.

Pending the final resolution of any such disputes and/or claims, Contractor agrees to diligently proceed with the performance of the Agreement, including the delivering of goods or providing of services. Contractor's failure to diligently proceed shall constitute a material breach of the Agreement.

The Agreement shall be interpreted, administered, and enforced according to the laws of the State of California. The parties agree that any suit brought hereunder shall have venue in Sacramento, California, the parties hereby waiving any claim or defense that such venue is not convenient or proper.

A county, city, district or other local public body, state board or state commission, another state or federal agency, or joint-powers authority shall resolve a dispute with CDCR, if any, through a meeting of representatives from the entities affected. If the dispute cannot be resolved to the satisfaction of the parties, each entity may thereafter pursue its right to institute litigation or other dispute resolution process, if any, available under the laws of the State of California.

2. Confidentiality of Data

All financial, statistical, personal, technical and other data and information relating to State's operation, which are designated confidential by the State and made available to carry out this Agreement, or which become available to the Contractor in order to carry out this Agreement, shall be protected by the Contractor from unauthorized use and disclosure.

If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used with the written consent of the State. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data already rightfully in the Contractor's possession that is independently developed by the Contractor outside the scope of the Agreement or is rightfully obtained from third parties.

No reports, information, inventions, improvements, discoveries, or data obtained, repaired, assembled, or developed by the Contractor pursuant to this Agreement shall be released, published, or made available to any person (except to the State) without prior written approval from the State.

Contractor by acceptance of this Agreement is subject to all of the requirements of California Government Code Section 11019.9 and California Civil Code Sections 1798, et seq., regarding the collection, maintenance, and disclosure of personal and confidential information about individuals.

3. Accounting Principles

The Contractor will adhere to generally accepted accounting principles as outlined by the American Institute of Certified Public Accountants. Dual compensation is not allowed; a contractor cannot receive simultaneous compensation from two or more funding sources for the same services performed even though both funding sources could benefit.

4. Taxes

Unless required by law, the State of California is exempt from federal excise taxes.

5. Right to Terminate (Supersedes provision number 7, Termination for Cause, of Exhibit C)

The parties hereto agree that either party may cancel this Agreement by giving the other party written notice thirty (30) days in advance of the effective date of such cancellation. In the event of such termination, the State agrees to pay Contractor for actual services rendered up to and including the date of termination.

The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

6. Contract Suspension

Notwithstanding any other provisions of this Agreement, pursuant to a Governor's Executive Order or equivalent directive, such as a court order or an order from a federal or state regulatory agency, mandating the suspension of state contracts, the State may issue a Suspension of Work Notice. The Notice shall identify the specific Executive Order or directive and the Agreement number(s) subject to suspension. Unless specifically stated otherwise, all performance under the Agreement(s) must stop immediately upon receipt of the Notice. During the period of contract suspension, Contractor is not entitled to any payment for the suspended work. Once the order suspending state contracts has been lifted, a formal letter from the Department will be issued to the Contractor to resume work.

7. Extension of Term

If it is determined to be in the best interest of the State, upon agreement, the State may extend this contract, with no increase in service cost, for a period of one (1) year or less.

8. Contractor Employee Misconduct

During the performance of this Agreement, it shall be the responsibility of the Contractor whenever there is an incident of use of force or allegation(s) of employee misconduct associated with and directly impacting inmate and/or parolee rights, to immediately notify the CDCR of the incident(s), to cause an investigation to be conducted, and to provide CDCR with all relevant information pertaining to the incident(s). All relevant information includes, but is not limited to: a) investigative reports; b) access to inmates/parolees and the associated staff; c) access to employee personnel records; d) that information reasonably necessary to assure CDCR that inmates and/or parolees are not or have not been deprived of any legal rights as required by law, regulation, policy and procedures; and e) written evidence that the Contractor has taken such remedial action, in the event of unnecessary or excessive force, or employee misconduct with inmates and/or parolees, as will assure against a repetition of incident(s) or retaliation. To the extent that the information provided by the Contractor fails to so assure CDCR, CDCR may require that any implicated Contractor staff be denied access to and the supervision of CDCR inmates and/or parolees at the facility and access to inmate and/or parolee records. Notwithstanding the foregoing, and without waiving any obligation of the Contractor, CDCR retains the power to conduct an independent investigation of any incident(s). Furthermore, it is the responsibility of the Contractor to include the foregoing terms within any and all subcontracts, requiring that subcontractor(s) agree to the jurisdiction of CDCR to conduct an investigation of their facility and staff, including review of subcontractor employee personnel records, as a condition of the Agreement.

9. Subcontracting

Services provided are to be performed primarily with the staff of the public entity or, in the case of educational institutions, auxiliaries or foundations, by the faculty, staff or students associated with the particular institution. Agreements are not to be used by state agencies to circumvent the competitive bidding requirements of Public Contract Code Section 10340.

If more than twenty-five (25) percent of the total contract amount or \$50,000.00, whichever is less, is subcontracted, non-competitive bid approval must be obtained from the Secretary of CDCR and the Department of General Services prior to the commencement of services, unless the subcontract was competitively bid or the subcontractor(s) also qualifies as a state agency, governmental agency, or joint power.

10. Subcontractor/Consultant Information

Contractor is required to identify all subcontractors and consultants who will perform labor or render services in the performance of this Agreement. Additionally, the Contractor shall notify the Department of Corrections and Rehabilitation, Office of Business Services, in writing, within ten (10) working days, of any changes to the subcontractor and/or consultant information.

11. Liability for Nonconforming Work

The Contractor will be fully responsible for ensuring that the completed work conforms to the agreed upon terms. If nonconformity is discovered prior to the Contractor's deadline, the Contractor will be given a reasonable opportunity to cure the nonconformity. If the nonconformity is discovered after the deadline for the completion of the project, CDCR, in its sole discretion, may use any reasonable means to cure the nonconformity. The Contractor shall be responsible for reimbursing CDCR for any additional expenses incurred to cure such defects.

12. Temporary Nonperformance

If, because of mechanical failure or for any other reason, the Contractor shall be temporarily unable to perform the work as required, the State, during the period of the Contractor's inability to perform, reserves the right to accomplish the work by other means and shall be reimbursed by the Contractor for any additional costs above the Agreement price.

13. Contract Violations

The Contractor acknowledges that any violation of Chapter 2, or any other chaptered provision of the Public Contract Code (PCC), is subject to the remedies and penalties contained in PCC Sections 10420 through 10425.

14. Employment of Ex-Offenders

Contractor cannot and will not either directly, or on a subcontract basis, employ in connection with this Agreement:

- a. Ex-Offenders on active parole or probation, who have been on active parole or probation during the last three years preceding their employment;
 1. Contractor shall only employ ex-offenders who can provide written evidence of having satisfactorily completed parole or probation, and who have remained off parole or probation, and have had no arrests or convictions within the past three years.
- b. Ex-offenders convicted of drug trafficking in a prison/jail; escape or aiding/abetting escape; battery on a Peace Officer or Public Official; arson offenses; or, any violations of Penal Code Sections 4570-4574 (unauthorized Communications with Prisons and Prisoners Offenses).
- c. Ex-Offenders are required to register as a sex offender pursuant to Penal Code Section 290.
- d. Any ex-offender who has an offense history involving a "violent felony" as defined in subparagraph (c) of Penal Code Section 667.5; or
- e. Any ex-offender in a position which provides direct supervision of parolees.

An ex-offender whose assigned duties involve administrative or policy decision-making, accounting, procurement, cashiering, auditing, or any other business-related administrative function shall be fully bonded to cover any potential loss to the State or contractor. Evidence of such bond shall be supplied to CDCR prior to employment of the ex-offender.

15. Conflict of Interest

The Contractor and their employees shall abide by the provisions of Government Code (GC) Sections 1090, 81000 et seq., 82000 et seq., 87100 et seq., and 87300 et seq., Public Contract Code (PCC) Sections 10335 et seq. and 10410 et seq., California Code of Regulations (CCR), Title 2, Section 18700 et seq. and Title 15, Section 3409, and the Department Operations Manual (DOM) Section 31100 et seq. regarding conflicts of interest.

a. Contractors and Their Employees

Consultant contractors shall file a Statement of Economic Interests, Fair Political Practices Commission (FPPC) Form 700 prior to commencing services under the Agreement, annually during the life of the Agreement, and within thirty (30) days after the expiration of the Agreement. Other service contractors and/or certain of their employees may be required to file a Form 700 if so requested by the CDCR or whenever it appears that a conflict of interest may be at issue. Generally, service contractors (other than consultant contractors required to file as above) and their employees shall be required to file an FPPC Form 700 if one of the following exists:

- (1) The Agreement service has been identified by the CDCR as one where there is a greater likelihood that a conflict of interest may occur;
- (2) The Contractor and/or Contractor's employee(s), pursuant to the Agreement, makes or influences a governmental decision; or
- (3) The Contractor and/or Contractor's employee(s) serves in a staff capacity with the CDCR and in that capacity participates in making a governmental decision or performs the same or substantially all the same duties for the CDCR that would otherwise be performed by an individual holding a position specified in the CDCR's Conflict of Interest Code.

b. Current State Employees

- (1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- (2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
- (3) In addition to the above, CDCR officials and employees shall also avoid actions resulting in or creating an appearance of:
 - (a) Using an official position for private gain;
 - (b) Giving preferential treatment to any particular person;
 - (c) Losing independence or impartiality;
 - (d) Making a decision outside of official channels; and
 - (e) Affecting adversely the confidence of the public or local officials in the integrity of the program.
- (4) Officers and employees of the Department must not solicit, accept or receive, directly or indirectly, any fee, commission, gratuity or gift from any person or business organization doing or seeking to do business with the State.

c. Former State Employees

- (1) For the two year (2-year) period from the date he or she left state employment, no former state officer or employee may enter into an Agreement in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the Agreement while employed in any capacity by any state agency.
- (2) For the twelve-month (12-month) period from the date he or she left state employment, no former state officer or employee may enter into an Agreement with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed Agreement within the 12-month period prior to his or her leaving state service.

In addition to the above, the Contractor shall avoid any conflict of interest whatsoever with respect to any financial dealings, employment services, or opportunities offered to inmates or parolees. The Contractor shall not itself employ or offer to employ inmates or parolees either directly or indirectly through an affiliated company, person or business unless specifically authorized in writing by CDCR. In addition, the Contractor shall not (either directly, or indirectly through an affiliated company, person or business) engage in financial dealings with inmates or parolees, except to the extent that such financial dealings create no actual or potential conflict of interest, are available on the same terms to the general public, and have been approved in advance in writing by CDCR. For the purposes of this paragraph, "affiliated company, person or business" means any company, business, corporation, nonprofit corporation, partnership, limited partnership, sole proprietorship, or other person or business entity of any kind which has any ownership or control interest whatsoever in the Contractor, or which is wholly or partially owned (more than 5% ownership) or controlled (any percentage) by the Contractor or by the Contractor's owners, officers, principals, directors and/or shareholders, either directly or indirectly. "Affiliated companies, persons or businesses" include, but are not limited to, subsidiary, parent, or sister companies or corporations, and any company, corporation, nonprofit corporation, partnership, limited partnership, sole proprietorship, or other person or business entity of any kind that is wholly or partially owned or controlled, either directly or indirectly, by the Contractor or by the Contractor's owners, officers, principals, directors and/or shareholders.

The Contractor shall have a continuing duty to disclose to the State, in writing, all interests and activities that create an actual or potential conflict of interest in performance of the Agreement.

The Contractor shall have a continuing duty to keep the State timely and fully apprised in writing of any material changes in the Contractor's business structure and/or status. This includes any changes in business form, such as a change from sole proprietorship or partnership into a corporation or vice-versa; any changes in company ownership; any dissolution of the business; any change of the name of the business; any filing in bankruptcy; any revocation of corporate status by the Secretary of State; and any other material changes in the Contractor's business status or structure that could affect the performance of the Contractor's duties under the Agreement.

If the Contractor violates any provision of the above paragraphs, such action by the Contractor shall render this Agreement void.

Members of boards and commissions are exempt from this section if they do not receive payment other than payment for each meeting of the board or commission, payment for preparatory time and payment for per diem.

16. Travel

Contractor's rates shall include all travel expenses required to perform services in accordance with this contract.

17. Notification of Personnel Changes

Contractor must notify the State, in writing, of any changes of those personnel allowed access to State premises for the purpose of providing services under this Agreement. In addition, Contractor must recover and return any State-issued identification card provided to Contractor's employee(s) upon their departure or termination.

18. Security Clearance/Fingerprinting

The State reserves the right to conduct fingerprinting and/or security clearance—through the Department of Justice, Bureau of Criminal Identification and Information (BCII)—prior to award and at any time during the term of the Agreement, in order to permit Contractor (and/or Contractor employee) access to State premises. The State further reserves the right to terminate the Agreement should a threat to security be determined.

19. Computer Software

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

20. Expendable Equipment

Expendable equipment is defined as expendable items which change with use and have a unit acquisition cost of less than \$5,000 per unit (i.e. fax machines, computers, printers, etc.). Title to any expendable equipment purchased or built with State funds as part of this agreement will vest in the State. The Contractor must retain a listing of expendable equipment purchases that are considered "theft-sensitive" items, such as cameras, calculators, two-way radios, computer equipment, etc., for audit purposes. Upon completion or termination of the agreement, Contractors are required to leave all expendable equipment for use by subsequent contractors or for the State to dispose of accordingly. The State may authorize the continued use of such equipment for work to be performed under a different agreement.

The cost of expendable equipment purchased should be comparable to the prevailing price for similar items in the surrounding area.

21. Electronic Waste Recycling

The Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.

22. Liability for Loss and Damages

Any damages by the Contractor to the State's facility including equipment, furniture, materials or other State property, will be repaired or replaced by the Contractor to the satisfaction of the State at no cost to the State. The State may, at its option, repair any such damage and deduct the cost thereof from any sum due Contractor under this Agreement.

23. Disclosure

Neither the State nor any State employee will be liable to the Contractor or its staff for injuries inflicted by inmates or parolees of the State. The State agrees to disclose to the Contractor any statement(s) known made by any inmate or parolee which indicate violence may result in any specific situation, and the same responsibility will be shared by the Contractor in disclosing such statement(s) to the State.

24. Workers' Compensation

Contractor hereby represents and warrants that Contractor is currently and shall, for the duration of this agreement, carry workers' compensation insurance, at Contractor's expense, or that it is self-insured through a policy acceptable to CDCR, for all of its employees who will be engaged in the performance of this agreement. Such coverage will be a condition of CDCR's obligation to pay for services provided under this agreement.

Prior to approval of this agreement and before performing any work, Contractor shall furnish to the State evidence of valid workers' compensation coverage. Contractor agrees that the workers' compensation insurance shall be in effect at all times during the term of this agreement. In the event said insurance coverage expires or is canceled at any time during the term of this agreement, Contractor agrees to give at least thirty (30) days prior notice to CDCR before said expiration date or immediate notice of cancellation. Evidence of coverage shall not be for less than the remainder of the term of the agreement or for a period of not less than one year. The State reserves the right to verify the Contractor's evidence of coverage. In the event the Contractor fails to keep workers' compensation insurance coverage in effect at all times, the State reserves the right to terminate this agreement and seek any other remedies afforded by the laws of this State.

Contractor also agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all of Contractor's workers' compensation claims and losses by Contractor's officers, agents and employees related to the performance of this agreement.

25. Insurance Requirements

Insurance as required herein shall be a condition of the State's obligation to pay for services provided under this Agreement. Prior to approval of this Agreement and before performing any work, Contractor and any subcontractor shall furnish to the State evidence of valid coverage. The following shall be considered evidence of coverage: A certificate of insurance, a "true and certified" copy of the policy, or any other proof of coverage issued by Contractor's insurance carrier. Binders are not acceptable as evidence of coverage. Providing evidence of coverage to the State conveys no rights or privileges to the State, nor does it insure any State employee or insure any premises owned, leased, used by or otherwise or under the control of the State. It does, however, serve to provide the State with proof that the Contractor and any subcontractors are insured at the minimum levels required by the State of California.

Contractor agrees that any liability insurance required in the performance of this Agreement shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires or is canceled during the term of this Agreement, Contractor's insurance provider must agree to give at least thirty (30) days prior notice to the State before said expiration date or notice of cancellation. Evidence of coverage required in the performance of this Agreement shall not be for less than the remainder of the term of this Agreement or for a period of not less than one year. The State and the Department of General Services (DGS) reserve the right to verify the Contractor's evidence of coverage; evidence of coverage is subject to the approval of the DGS. In the event the Contractor fails to keep insurance coverage as required herein in effect at all times, the State reserves the right to terminate this Agreement and to seek any other remedies afforded by the laws of the State of California.

Contractor hereby represents and warrants they (and any subcontractors) are currently and shall for the duration of this Agreement be insured. Contractor shall provide proof of self-insurance.

26. Tuberculosis (TB) Testing

In the event that the services required under this Agreement will be performed within a CDCR institution/parole office/community-based program, prior to the performance of contracted duties, Contractors and their employees who are assigned to work with inmates/parolees on a regular basis shall be required to be examined or tested or medically evaluated for TB in an infectious or contagious stage, and at least once a year thereafter or more often as directed by CDCR. Regular basis is defined as having contact with inmates/parolees in confined quarters more than once a week.

Contractors and their employees shall be required to furnish to CDCR, at no cost to CDCR, a form CDCR 7336, "Employee Tuberculin Skin Test (TST) and Evaluation," prior to assuming their contracted duties and annually thereafter, showing that the Contractor and their employees have been examined and found free of TB in an infectious stage. The form CDCR 7336 will be provided by CDCR upon Contractor's request.

The following provisions apply to services provided on departmental and/or institution grounds:

27. Blood borne Pathogens

Provider shall adhere to California Division of Occupational Safety and Health (CAL-OSHA) regulations and guidelines pertaining to blood borne pathogens.

28. Primary Laws, Rules, and Regulations Regarding Conduct and Association with State Prison Inmates and Division of Juvenile Justice Wards

Individuals who are not employees of the California Department of Corrections and Rehabilitation (CDCR), but who are working in and around inmates who are incarcerated, or wards who are housed within California's institutions/facilities or camps, are to be apprised of the laws, rules and regulations governing conduct in associating with prison inmates or wards. The following is a summation of pertinent information when non-departmental employees come in contact with prison inmates or wards.

By signing this contract, the Contractor agrees that if the provisions of the contract require the Contractor to enter an institution/facility or camp, the Contractor and any employee(s) and/or subcontractor(s) shall be made aware of and shall abide by the following laws, rules and regulations governing conduct in associating with prison inmates or wards:

- a. Persons who are not employed by CDCR, but are engaged in work at any institution/facility or camp must observe and abide by all laws, rules and regulations governing the conduct of their behavior in associating with prison inmates or wards. Failure to comply with these guidelines may lead to expulsion from CDCR institutions/facilities or camps.

SOURCE: California Penal Code (PC) Sections 5054 and 5058; California Code of Regulations (CCR), Title 15, Sections 3285 and 3415, and California Welfare and Institutions Code (WIC) Section 1712.

- b. CDCR does not recognize hostages for bargaining purposes. CDCR has a "NO HOSTAGE" policy and all prison inmates, wards, visitors, and employees shall be made aware of this.

SOURCE: PC Sections 5054 and 5058; CCR, Title 15, Section 3304 and 4603; WIC Section 1712.

- c. All persons entering onto institution/facility or camp grounds consent to search of their person, property or vehicle at any time. Refusal by individuals to submit to a search of their person, property, or vehicle may be cause for denial of access to the premises.

SOURCE: PC Sections 2601, 5054 and 5058; CCR, Title 15, Sections 3173, 3177, 3288, 4696, and 4697; WIC 1712.

- d. Persons normally permitted to enter an institution/facility or camp may be barred, for cause, by the CDCR Director, Warden, and/or Regional Parole Administrator.

SOURCE: PC Sections 5054 and 5058; CCR, Title 15, Section 3176 (a) and 4696; WIC Section 1712.

- e. It is illegal for an individual who has been previously convicted of a felony offense to enter into CDCR adult institutions/facilities or camps, or youth institutions/facilities or camps in the nighttime, without the prior approval of the Warden or officer in charge. It is also illegal for an individual to enter onto these premises for unauthorized purposes or to refuse to leave said premises when requested to do so. Failure to comply with this provision could lead to prosecution.

SOURCE: PC Sections 602, 4570.5 and 4571; CCR, Title 15, Sections 3173 and 3289; WIC Section 1001.7.

- f. Encouraging and/or assisting prison inmates to escape, is a crime. It is illegal to bring firearms, deadly weapons, explosives, tear gas, drugs or drug paraphernalia on CDCR institutions/facilities or camp premises. It is illegal to give prison inmates or wards firearms, explosives, alcoholic beverages, narcotics, or any drug or drug paraphernalia, including cocaine or marijuana. It is illegal to give wards sex oriented objects or devices, and written materials and pictures whose sale is prohibited to minors.

SOURCE: PC Sections 2772, 2790, 4533, 4535, 4550, 4573, 4573.5, 4573.6 and 4574; WIC Section 1152, CRR, Title 15, sections 4681 and 4710; WIC Section 1001.5.

- g. It is illegal to give or take letters from inmates or wards without the authorization of the Warden or officer in charge. It is also illegal to give or receive any type of gift and/or gratuities from prison inmates or wards.

SOURCE: PC Sections 2540, 2541 and 4570; CCR, Title 15, Sections 3010, 3399, 3401, 3424, 3425 and 4045; WIC Section 1712.

- h. In an emergency situation the visiting program and other program activities may be suspended.

SOURCE: PC Section 2601; CCR, Title 15, Section 3383, 4002.5 and 4696.

- i. For security reasons, visitors must not wear clothing that in any way resembles state issued prison inmate or ward clothing (blue denim shirts, blue denim pants).

SOURCE: CCR, Title 15, Section 3174 (b) (1) and 4696.

- j. Interviews with SPECIFIC INMATES are not permitted. Conspiring with an inmate to circumvent policy and/or regulations constitutes a rule violation that may result in appropriate legal action. Interviews with individual wards are permitted with written consent of each ward if he is 18 years of age or older, or with written consent of a parent, legal guardian, or committing court, if 17 years of age or younger.

SOURCE: CCR, Title 15, Sections 3261.5, 3315 (a) (3) (X), and 3177 and 4700(a)(1).

29. Clothing Restrictions

While on institution grounds, Contractor and all its agents, employees, and/or representatives shall be professionally and appropriately dressed in clothing distinct from that worn by inmates at the institution. Specifically, blue denim pants and blue chambray shirts, orange/red/yellow/white/chartreuse jumpsuits and/or yellow rainwear shall not be worn onto institution grounds, as this is inmate attire. Contractor should contact the institution regarding clothing restrictions prior to requiring access to the institution to assure the Contractor and their employees are in compliance.

30. Tobacco-Free Environment

Pursuant to Penal Code Section 5030.1, the use of tobacco products by any person on the grounds of any institution or facility under the jurisdiction of the Department of Corrections and Rehabilitation is prohibited.

31. Prison Rape Elimination Policy

CDCR is committed to providing a safe, humane, secure environment, free from sexual misconduct. This will be accomplished by maintaining a program to ensure education/prevention, detection, response, investigation and tracking of sexual misconduct and to address successful community re-entry of the victim. The CDCR shall maintain a zero tolerance for sexual misconduct in its institutions, community correctional facilities, conservation camps and for all offenders under its jurisdiction. All sexual misconduct is strictly prohibited.

As a contractor with the CDCR, you and your staff are expected to ensure compliance with this policy as described in Department Operations Manual, Chapter 5, Article 44.

32. Security Regulations

- a. Unless otherwise directed by the entrance gate officer and/or Contract Manager, the Contractor, Contractor's employees and subcontractors shall enter the institution through the main entrance gate and park private and nonessential vehicles in the designated visitor's parking lot. Contractor, Contractor's employees and subcontractors shall remove the keys from the ignition when outside the vehicle and all unattended vehicles shall be locked and secured while on institution grounds.
- b. Any State- and Contractor-owned equipment used by the Contractor for the provision of contract services, shall be rendered temporarily inoperative by the Contractor when not in use, by locking or other means unless specified otherwise.
- c. In order to maintain institution safety and security, periodic fire prevention inspections and site searches may become necessary and Contractor must furnish keys to institutional authorities to access all locked areas on the worksite. The State shall in no way be responsible for Contractor's loss due to fire.

- d. Due to security procedures, the Contractor, Contractor's employees and subcontractors may be delayed at the institution vehicle/pedestrian gates and sally ports. Any loss of time checking in and out of the institution gates and sally ports shall be borne by the Contractor.
- e. Contractor, Contractor's employees and subcontractors shall observe all security rules and regulations and comply with all instructions given by institutional authorities.
- f. Electronic and communicative devices such as pagers, cell phones and cameras/microcameras are not permitted on institution grounds.
- g. Contractor, Contractor's employees and subcontractors shall not cause undue interference with the operations of the institution.
- h. No picketing is allowed on State property.

33. Gate Clearance

Contractor and Contractor's employee(s) and/or subcontractor(s) must be cleared prior to providing services. The Contractor will be required to complete a Request for Gate Clearance for all persons entering the facility a minimum of ten (10) working days prior to commencement of service. The Request for Gate Clearance must include the person's name, social security number, valid state driver's license number or state identification card number and date of birth. Information shall be submitted to the Contract Liaison or his/her designee. CDCR uses the Request for Gate Clearance to run a California Law Enforcement Telecommunications System (CLETS) check. The check will include Department of Motor Vehicles check, Wants and Warrants check, and Criminal History check.

Gate clearance may be denied for the following reasons: Individual's presence in the institution presents a serious threat to security, individual has been charged with a serious crime committed on institution property, inadequate information is available to establish positive identity of prospective individual, and/or individual has deliberately falsified his/her identity.

All persons entering the facilities must have a valid state driver's license or photo identification card on their person.