

BID AND CONTRACT DOCUMENTS



GRIZZLY FLATS CSD WATER TREATMENT IMPROVEMENTS PROJECT

WATER TREATMENT EQUIPMENT PRE-SELECTION AND PURCHASE

June, 2024

Table of Contents

SECTION 1.	BIDDING REQUIREMENTS AND SUBMITTALS	1
1.1	INVITATION TO BID.....	1
1.2	BID FORM/ PROPOSAL	3
1.3	BASE BID SCHEDULE AND TOTAL PRICE	5
1.3.1	ALTERNATES BID SCHEDULE AND TOTAL ALTERNATES PRICE... Error! Bookmark not defined.	
1.4	BID BOND	6
1.5	DESIGNATION OF SUBCONTRACTORS	8
1.6	EXPERIENCE QUALIFICATIONS AND REGISTRATION	8
1.7	NON-COLLUSION DECLARATION.....	11
1.8	CERTIFICATION OF NON-DISCRIMINATION.....	12
1.9	CERTIFICATION OF NON-SEGREGATED FACILITIES	13
1.10	CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS	14
SECTION 2.	INSTRUCTIONS TO BIDDERS	18
2.1	INTRODUCTION.....	188
2.2	NOT USED	18
2.3	NOT USED	18
2.4	FORM OF BID AND SIGNATURE.....	18
2.5	PREPARATION OF THE BID	18
2.6	SUBMISSION OF BIDS.....	19
2.7	BID GUARANTEE	20
2.8	LIST OF SUBCONTRACTORS.....	200
2.9	INTERPRETATION OF CONTRACT DOCUMENTS.....	201
2.10	MODIFICATION OF BIDS.....	211
2.11	WITHDRAWAL AND RETURN OF BIDS	211
2.12	DISCREPANCIES	222

2.13	SERVICING AND MAINTENANCE	222
2.14	DISQUALIFICATION OF BIDDERS	222
2.15	AWARD OF CONTRACT	222
2.16	NOT USED.....	233
2.17	EXECUTION OF CONTRACT	233
2.18	RETURN OF BID GUARANTEES	233
2.19	NOT USED.....	233
2.20	NOT USED.....	233
2.21	NOT USED	
2.22	PREVAILING WAGES	244
2.23	BID PROTEST.....	244
2.24	INELIGIBLE VENDORS AND SUBCONTRACTORS.....	25

SECTION 3. CONTRACT FORMS 26

3.1	CONTRACT PURCHASE AGREEMENT	27
3.2	SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS	35
3.3	VENDOR CERTIFICATE REGARDING WORKER'S COMPENSATION Error! Bookmark not defined. 5	
3.4	NOTICE OF AWARD	35
3.5	GUARANTEE	468
3.6	INSURANCE	Error! Bookmark not defined. 8
3.7	INDEMNITY AND LITIGATION COST	50
3.8	WATER TREATMENT MODULE PERFORMANCE, EQUIPMENT, AND OTHER REQUIREMENTS.....	51

SECTION 1. BIDDING REQUIREMENTS AND SUBMITTALS

1.1 INVITATION TO BID

Sealed Proposals will be received by Grizzly Flats Community Services OWNER (“Owner”), located at **4765 Sciaroni Rd, Grizzly Flats, CA 95636**, until **2:00 p.m.** local time on **July 9th, 2024**, or such later date as may be set by addendum, and then will be publicly opened and read for the construction of the following public works project:

GRIZZLY FLATS CSD WATER TREATMENT IMPROVEMENTS PROJECT

WATER TREATMENT EQUIPMENT PRE-SELECTION AND PURCHASE

The proposed work generally consists of the following:

The Grizzly Flats Community Services OWNER (Owner) is soliciting bids for water treatment modules (WTM) to replace two (2) aging water treatment modules currently in use. The OWNER provides treated surface water to approximately 300 connections, with plans for expansion to approximately 600 connections in the next 10 - 20 years.

The OWNER is requesting bids for WTMs to pre-select the equipment in advance of preparing engineered plans and specifications for the removal and replacement of the existing WTMs. Due to time constraints associated with funding and existing WTM deficiencies, the OWNER does not have time or budget for pilot testing. Hence, WTMs must be a prefabricated product whereby options can be selected by the purchaser, but not a unique or custom engineered design. WTMs must have previously approved use in and by the State of California Water Board for the purpose intended. Because the OWNER maintains minimal operations staff, bidders must offer an established provide a technical service and support program, which includes technicians certified by the manufacturer, for the equipment, including but limited to, certified technicians available for service of the WTMs.

The work is more specifically described in the Contract Documents.

The Contract Documents, including the Instructions to Bidders and Performance Specifications for the Equipment may be examined at Owner’s office, located at **4765 Sciaroni Rd, Grizzly Flats, CA 95636**. A copy of the Contract Documents may be downloaded from the Grizzly Flats CSD website (grizzlyflatscsd.com). The Bidder’s attention is directed to the Instructions to Bidders for complete instructions regarding submission of bid.

Each Bid must be submitted on the prescribed forms and accompanied by cash, a cashier’s check, certified check or bid bond executed on the prescribed form payable to Owner in an amount not less than 10 percent (10%) of the bid amount.

Selection of WTM will be based on the lowest responsive and responsible bid price, pursuant to California Public Contract Code § 20682(b). A credit will be provided to products manufactured in the United States of America (U.S.). For WTMs manufactured outside of the U.S., 5% will be added to the base bid for comparing bid prices. A “responsive and responsible” bidder is defined as a WTM that meets all of the performance and approval criteria listed herein, and WTM documentation verifying the manufacturer and/or distributor maintains a comprehensive service program available to OWNER.

The attention of bidders is directed to the requirements and conditions of employment to be observed and prevailing wage rate to be paid under the Contract (**for on-site labor**). Copies of the prevailing rate of per diem wages are on file at Owner’s office and will be made available to any interested party on request.

Pursuant to Public Contract Code § 22300, Owner shall permit the substitution of securities for any moneys withheld in retention by Owner.

All questions concerning the Bid Documents and the Project should be addressed to the Project Engineer, Scott Myers at scott@H2Ourban.com, or (916) 868-4957. Questions must be submitted via email no later than July 1, 2024. The answer to relevant questions will be addressed through a formal addenda process, if necessary.

Owner reserves the right to reject any and all Bids during the time for awarding the Contract, and to waive any informality or irregularity in any Bid. No Bid can be withdrawn during the time for awarding the Contract. Any bid not conforming to the intent and purpose of the Contract Documents may be rejected. Owner may extend the time to award the Contract for a period of time which shall not extend beyond 90 days from the bid opening date.

1.2 BID FORM/ PROPOSAL

TO: [OWNER]

THE UNDERSIGNED STATES AND DECLARES AS FOLLOWS:

The undersigned Bidder has carefully examined the location of the proposed work and has examined the Contract Documents entitled:

**GRIZZLY FLATS CSD WATER TREATMENT IMPROVEMENTS PROJECT
WATER TREATMENT EQUIPMENT PRE-SELECTION AND PURCHASE**

The Bidder has read the accompanying Invitation to Bid and Instructions to Bidders; the Bidder hereby proposes to furnish WTM equipment, and to perform all supporting work required, in accordance with the Contract Documents; and the Bidder will take in full payment for such equipment and work the price set forth in the accompanying Base Bid Schedule. The Bidder herewith submits its Base Bid as reflected on the accompanying Base Bid Schedule.

TOTAL BASE BID: \$ _____

The Bidder's authorized officer identified below hereby declares that the representations in this Bid are true and correct and that these representations are made under penalty of perjury under the laws of the State of California.

Executed on _____, 20__, at _____, _____.

BIDDER

Company/firm name _____

Capacity of company or firm, e.g., corporation (include state of incorporation), sole proprietor, partnership _____

Authorized signature _____

Name _____

Title _____

Address: _____

Phone No.: _____

Fax No.: _____

E-Mail: _____

1.3 BASE BID SCHEDULE AND TOTAL PRICE

NAME OF BIDDER: _____

Unit Price Table

Bid Item	Unit	Quantity	Cost
One (1) WTM ¹	Ea.	1	
Field labor to complete WTM assembly	Ea.	1	
Installation oversight and start up	Ea.	1	
Taxes, fees, etc.			
Total Cost one (1) WTM			
Additional (second) WTM ²	Ea.	1	
Field labor to complete WTM assembly	Ea.	1	
Installation oversight and start up	Ea.	1	
Taxes, fees, etc.			
Total Cost Second WTM			
BASE BID (Total Cost for two (2) WTM's)			

1. Cost of WTM includes treatment unit design, fabrication, programming, factory testing, shipping, service and operation manuals, drawings, and spare parts.
2. WTM's will need to be installed separately to allow existing water treatment plant to remain in service, thus each WTM will require installation and start up assistance independently. Units can be shipped together.

TOTAL PRICE ALL ITEMS: _____

\$ [IN FIGURES]

[IN WRITING]

1.4 BID BOND

WHEREAS WE, THE UNDERSIGNED _____, VENDOR as Principal; and _____, as Surety, are hereby held and bound unto _____, hereinafter called Owner, in the sum of \$_____ which sum is equal to at least ten percent of the total amount of the Bid, payment of which sum, well and to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

The condition of the above obligation is such that whereas the Principal has submitted to Owner a certain Bid, attached hereto and hereby made a part hereof, to enter into a Contract in writing, for the following public works improvement project:

**GRIZZLY FLATS CSD WATER TREATMENT IMPROVEMENTS PROJECT
WATER TREATMENT EQUIPMENT PRE-SELECTION AND PURCHASE**

NOW, THEREFORE,

- (a) If the Bid is rejected, or in the alternate,
- (b) If the Bid is accepted and the Principal shall sign and deliver a Contract, in the form of the Contract attached hereto and shall deliver proof of insurance (all completed in accordance with the Contract Documents), and shall in all other respects perform the agreement created by the acceptance of the Bid;

Then, this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all default of the Principal hereunder shall be the amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which Owner may accept such Bid, and said Surety does hereby waive notice of any such extension.

IN WITNESS THEREOF, the above-bounded parties have executed this instrument under their several seals this _____ day of _____ 20___, the name and

corporate seal of each corporate party being hereto affixed and those presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(VENDOR as Principal)

(Seal)

By: _____

[Name]

[Title]

(Surety)

(Seal)

By: _____

[Name]

[Title]

1.5 DESIGNATION OF SUBCONTRACTORS

In compliance with Public Contract Code § 4100 et seq. each bidder shall set forth below the name, license number and business location of each subcontractor who will perform work in excess of one-half of 1% of the VENDOR's total bid and the portion of the work (expressed in dollar amount) that will be performed by each subcontractor. VENDOR shall also provide a description of the type of work to be performed by each subcontractor.

If the VENDOR fails to specify a subcontractor for any portion of the work to be performed under the Contract, it shall be deemed to have agreed to perform such portion itself, and it shall not be permitted to subcontract that portion of the work except under the conditions hereinafter set forth.

Subletting or subcontracting of any portion of the work in excess of one-half of 1% of the VENDOR's total bid as to which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the Owner setting forth the facts constituting the emergency or necessity.

Subcontractor (name and location)	Description of Subcontractor Work	Subcontractor License Type and #	Estimated Portion of Work (in \$\$)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

1.6 EXPERIENCE QUALIFICATIONS AND REGISTRATION

The Bidder has been engaged in the **water treatment equipment** business, under the present business name for _____ years. Experience in work of a nature similar to that covered in the Bid extends over a period of _____ years.

Manufacturer shall provide documentation of at least five (5) installations and three (3) years of successful operation in California for the WTM model or unit proposed.

The following contracts/installations have been satisfactorily completed and operated for at least three years for the persons, firm or entity indicated: (Bidder may provide additional experience statements).

<u>Year</u>	<u>Owner</u>	<u>Type of Work</u>	<u>Contract Amount</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

WTM factory location: _____

Executed on _____, 20__, at _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

BIDDER

_____(Company/firm name)

_____(Authorized signature)

_____(Name)

_____(Title)

1.7 NON-COLLUSION DECLARATION*

NON-COLLUSION DECLARATION TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid for the _____ PROJECT.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted its bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____[date], at _____[city], ___[state].

By: _____

Title: _____

*Note: Public Contracts Code 7106 requires this non-collusion declaration be submitted with a bid for any public works contract of a public entity.

1.8 CERTIFICATION OF NON-DISCRIMINATION

1. During the performance of this contract, VENDOR and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. VENDORS and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. VENDORS and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code § 12900 et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, § 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, § 12900, set forth in Chapter 5 of Division 4 of Title 2 or the California Administrative Code are incorporated into this contract by reference and made a part hereof as if set forth in full. VENDOR 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.

2. This VENDOR shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

THE UNDERSIGNED CERTIFIES THAT VENDOR WILL COMPLY WITH THE ABOVE REQUIREMENTS.

VENDOR OR

SUBCONTRACTOR NAME: _____

CERTIFIED BY:

NAME: _____ TITLE: _____

SIGNATURE: _____ DATE: _____

1.9 CERTIFICATION OF NON-SEGREGATED FACILITIES

A certification of non-segregated Facilities, as required by the May 9, 1967, order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e. quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

DATE _____

(Signature of Bidder)

Address (including Zip Code)

1.10 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

Name of Company/Entity: _____

The prospective participant certifies under penalty of perjury to the best of its knowledge and belief that it and its principals and subcontractors:

- (a) **Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a government entity (Federal, State, or local).**
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraphs (a) and (b) of this certification;
- (d) Have no more than one final unappealable finding of contempt of court by a federal court issued against them within the immediately preceding two-year period because of failure to comply with an order of a federal court which orders the VENDOR to comply with an order of the National Labor Relations Board;
- (e) **Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.**

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC § 1001, a false statement may result in a fine of up to \$ 10,000 or imprisonment for up to five (5) years, or both.

Name and Title of Authorized Representative (Typed/printed)

Signature of Authorized Representative

Date

I am unable to certify to the above statements. My explanation is below.

[RESERVED FOR EXPLANATION OF INABILITY TO CERTIFY TO SECTION 1.10]

**1.12 APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING
LOBBYING**

Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.**
- 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.**
- 3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.**
- 4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.**

5. The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date: _____

SECTION 2. INSTRUCTIONS TO BIDDERS

2.1 INTRODUCTION

Each bid shall be in accordance with these Instructions to Bidders and other applicable provisions of the Contract Documents. The Invitation to Bid will specify whether Contract Documents are available on a purchase or deposit basis. Where payment for such sets is specified, no refund will be made.

2.2 Not Used

2.3 Not Used

2.4 FORM OF BID AND SIGNATURE

Bids shall be submitted only on the forms attached hereto or copies thereof and shall be enclosed in a sealed envelope and marked and addressed as directed herein. On the Bid Schedule, the Bidder shall state in figures the unit prices or the specific sums as the case may be, for which he proposes to supply labor, materials, supplies, tools or equipment, and provide the equipment as required by the Contract Documents.

2.5 PREPARATION OF THE BID

2.5.1 Blank spaces in the Bid shall be properly completed. The phraseology of the Bid must not be changed and no additions shall be made to the items mentioned therein. Unauthorized conditions, limitations or provisions attached to a Bid may render it nonresponsive and may cause its rejection. If erasures, interlineations or other changes appear on the form, each erasure, interlineation or change must be initialed by the person signing the Bid. Alternative Bids will not be considered unless specifically provided for in the Bid Schedule.

2.5.2 The Contract General Conditions provides that the successful Bidder shall pay all federal, state and local taxes, including manufacturers' taxes, sales taxes, use taxes, processing taxes, and payroll, wage, insurance, social security, and unemployment taxes on wages, salaries or any remuneration paid to VENDOR's employees. A bidder's bid prices shall be deemed to include all applicable taxes, and there shall be no separate bid item or billing for taxes.

2.5.3 Bidding Requirements

WTM Manufacturers interested in bidding the project shall provide the following information as part of their bid package:

1. Company background related to water treatment, years manufacturing water treatment equipment, factory location, etc.;

2. WTM technical details and plans, including but not limited to, WTM size, capacity, weight, types and location of connections, power requirements, chemical requirements for process, component descriptions (make, model, options, spare parts, etc.);
3. Statement from manufacturer that the water quality data from OWNER was reviewed and manufacturer recommends the WTM proposed as an appropriate water treatment system for meeting federal Safe Drinking Water Act and State of California drinking water codes and regulations;
4. Price of a single WTM meeting the performance, manufacturing, and equipment criteria listed herein, and other incidental costs associated with purchase of the single WTM;
5. Price for a second WTM meeting the performance, manufacturing, and equipment criteria listed herein, and other incidental costs associated with purchase of the second WTM;
6. Estimated delivery after submittal approval (weeks);
7. Document verifying State of California Water Board approval of proposed WTM and associated log removal credits;
8. List of at least five (5) installations in California that have been in operation for a minimum of three (3) years, including WTM model, location, owner, water system, and contact information;
9. Description of the manufacturer's service program, including technical support, assistance with replacement parts, and availability of technicians to provide service at the installation.

2.6 SUBMISSION OF BIDS

2.6.1 Bids must be submitted not later than the time prescribed, at the place and in the manner set forth in the Invitation to Bid. Owner shall not consider any Bid received after the time fixed or received at any place other than the place stated in the Invitation to Bid. Bids must be made on the prescribed Bid forms.

A complete Bid requires submission of the following fully completed and executed documents:

- a. Section 1.2 Bid Form
- b. Section 1.3 Base Bid and Section 1.3.1 Alternates Bid Form (if applicable);
- c. Section 1.4 Bid Bond (or other bid guarantee);
- d. Section 1.5 Designation of Subcontractors;

- e. Section 1.6 Experience Qualifications;
- f. Section 1.7 Non-Collusion Declaration;
- g. Section 1.8 Non-Discrimination Clause;
- h. Section 1.9 Certification of Non-Segregated Facilities;
- i. Section 1.10 Certification Regarding Debarment, Suspension and other Responsibility Matters.
- j. Information listed in Section 2.5.3.

Each Bid must be submitted in a sealed envelope, so marked as to indicate its contents without being opened, and addressed in conformance with the instructions in the Invitation to Bid. The bidder is wholly responsible to see that its Bid is submitted at the time and place named for the opening of bids.

2.6.2 Bids shall acknowledge receipt of all addenda (identified by addendum number) issued during the bidding period. Failure to acknowledge an addendum or clarification may result in the Bid being rejected as not responsive.

2.6.3 Bids shall be opened at the time and place specified in the Invitation to Bid, unless changed by addendum. All Bids will be opened and read publicly. Bidders, their representatives and other interested parties are invited to be present at the opening.

2.7 BID GUARANTEE

2.7.1 All Bids shall be accompanied by a Bid Bond, in a form substantially in conformance with the form provided at Section 1.4, made payable to Owner. The Bid Bond must be enclosed in the same envelope with the Bid. The amount of the Bid Bond shall be not less than 10 percent of the total amount of the Bid.

2.7.2 If a bond is utilized, the Attorney-in-Fact (resident agent) who executes the Bid Bond on behalf of the surety company must attach a copy of its Power of Attorney as evidence of its authority. A notary shall acknowledge the power as of the date of execution of the surety bond which it covers. A bond will be accepted only if it is made out on either the Bid Bond form enclosed in these documents or on a form which substantially conforms to it.

2.8 LIST OF SUBCONTRACTORS

Each bidder shall set forth in its Bid on the form provided the following information in accordance with the provisions of California Public Contract Code § 4100, et seq.: (a) the name, license number and location of the place of business of each subcontractor who will perform work or labor or render service to VENDOR in or about the construction of the work or improvement, and of each subcontractor who, under subcontract to VENDOR, is to specifically fabricate and install or provide a portion of the work or improvement according to the Contract Documents, in any amount in excess of

½ of 1 percent of VENDOR's total Bid; (b) the portion of the work that will be done by each such subcontractor; and (c) a description of the work to be done by each such subcontractor. Only one subcontractor shall be listed for each portion of the work as defined in the Bid. If the bidder fails to specify a subcontractor for any portion of the work, the bidder agrees to perform that portion of the work itself.

2.9 INTERPRETATION OF CONTRACT DOCUMENTS

2.9.1 Any explanation desired by the bidder regarding the meaning or interpretation of any of the Contract Documents must be requested in writing, with sufficient allowance of time for receipt of reply before the time set for opening of Bids. Any such explanations or interpretations will be made only in the form of addenda to the documents and will be furnished to all bidders who shall submit all addenda with their Bids. No representative of Owner is authorized to give oral explanations or interpretations of Contract Documents, and a submission of a Bid constitutes agreement by the bidder that he has placed no reliance on any such oral explanation or interpretation. However, Owner may, upon inquiry by bidder, orally direct the bidder's attention to specific provisions of the Contract Documents which cover the subject of the inquiry.

2.9.2 The Bidder shall review the performance, equipment, and contract criteria prior to submission of the bid and shall report to Owner any errors and omissions noted by the Bidder prior to such submission.

2.10 MODIFICATION OF BIDS

A Bidder may modify its Bid by written communication provided such communication is received by Owner prior to the closing time for receipt of Bids. The written communication shall not reveal the Bid price but should state the addition or subtraction or other modification so that the final prices or terms will not be known by Owner until the sealed bid is opened.

2.11 WITHDRAWAL AND RETURN OF BIDS

Bids may be withdrawn without prejudice by written, e-mail, facsimile or telegraphic requests received from the Bidder prior to the time for opening of Bids, and Bids so withdrawn will be returned to bidders unopened. No Bid may be withdrawn after the hour affixed for opening Bids without rendering the accompanying Bid Bond subject to retention as liquidated damages in like manner as in the case of failure to execute the Contract after award, as provided in the Contract Documents. Negligence on the part of the Bidder preparing its Bid shall not constitute a right to withdraw the Bid subsequent to the opening of Bids. Any Bid received after the bid submission deadline shall be returned to the bidder unopened.

2.12 DISCREPANCIES

In the case of discrepancy between unit prices and totals, unit prices will prevail. In case of discrepancy between words and figures, words will prevail.

2.13 SERVICING AND MAINTENANCE

Each Bidder must, if requested, furnish evidence that there is an efficient service organization which regularly carries a stock of repair parts for the proposed equipment to be furnished and installed in the work and that the organization is conveniently located for prompt service.

2.14 DISQUALIFICATION OF BIDDERS

2.14.1 More than one Bid from an individual, firm, partnership or corporation under the same or different names will not be considered. Reasonable grounds for believing that any individual, firm, partnership or corporation is interested in more than one Bid for the work contemplated may cause the rejection of all Bids in which the individual, firm, partnership or corporation is interested. If there is reason for believing that collusion exists among the bidders, any or all Bids may be rejected. Bids in which the price is obviously unbalanced may be rejected.

2.14.2 All bidders are put on notice that any collusive agreement fixing the prices to be bid so as to control or affect the awarding of this Contract is in violation of the competitive bidding requirements applicable to Owner and may render void any contract let under such circumstances.

2.15 AWARD OF CONTRACT

2.15.1 Owner reserves the right to reject any and all Bids during the time for awarding the Contract, and to waive any informality or irregularity in any Bid. No Bid can be withdrawn during the time for awarding the Contract. The time for awarding the Contract is provided in section 2.17.

2.15.2 Before a Bid is considered for award, Owner may require a Bidder to submit a statement of facts and detail as to its business, technical organization and financial resources and equipment available and to be used in performing the work. Additionally, Owner may require evidence that the Bidder has performed other work of comparable magnitude and type.

Owner expressly reserves the right to reject any Bid if it determines that the business and technical organization, equipment, financial and other resources or other experience of the Bidder (including the Bidder's subcontractor) is not sufficiently qualified for the work bid upon and, therefore, justifies such rejection.

2.15.3 The award of the Contract, if it is awarded, will be to the lowest Base Bid from a responsible responsive Bidder whose Bid complies with the requirements of the Contract Documents.

2.16 Not Used

2.17 EXECUTION OF CONTRACT

The successful Bidder will be notified in writing by Owner of the award of the Contract within thirty (30) days after opening of Bids, unless the time period is extended as provided in the Invitation to Bid. Accompanying Owner's notice of award will be the Purchase Contract, which Owner may require to be executed in duplicate or triplicate. Within fifteen (15) days following receipt of such notice of award, the successful bidder will be required to execute and return the original contract(s), certificates and proof of insurance documents (see General Conditions section 5.52), to Owner. Failure to do so shall be just cause for annulment of the award and for forfeiture of the Bid Bond, which shall be retained as liquidated damages. It is agreed that the Bid Bond sum is a fair estimate of the amount of damages that Owner will sustain by reason of such failure. Owner may elect to extend the fifteen (15) days if it needs additional time to verify VENDOR information.

Owner will promptly determine whether such Contract, bonds and insurance conform with the requirements of the Contract Documents, and upon such determination will forward a fully executed copy of the Contract and a Notice to Proceed with the work to the successful bidder. Signature by both parties constitutes execution of the Contract. In the event of failure of the lowest responsible responsive Bidder to sign and return the Contract with acceptable bonds and insurance as prescribed herein, Owner may award the Contract to the next lowest responsible responsive Bidder, and, in the event that Bidder fails to sign and return the Contract with acceptable bonds and insurance, Owner may award the Contract to the then next lowest responsible responsive Bidder, etc.

2.18 RETURN OF BID GUARANTEES

All Bid Bonds will be held until the Contract has been finally executed, after which all Bid Bonds, other than any Bid Bonds which have been forfeited, will be returned to the respective bidders whose Bids they accompanied, but in no event shall non-forfeited bonds be held by Owner beyond 60 days from the date that Owner awards the Contract.

2.19 Not Used

2.20 Not Used

2.21 Not Used

2.22 PREVAILING WAGES

Copies of the prevailing rate of per diem wages are on file at Owner's office, and will be made available to any interested party on request. VENDOR shall post at each job site a copy of the determination of the Director of Industrial Relations of the prevailing rate of per diem wages in the locality in which this public work is to be performed.

2.23 BID PROTEST

Any bid protest must be submitted in writing to Owner before 5:00 p.m. of the seventh day following the bid award.

2.23.1 The bid protest shall be in the form of a letter or memo and it shall include the following: a complete statement of the basis or bases for the protest, including any supporting documents; a reference to the specific portion(s) of the Contract Documents which forms the basis for the protest; and, the name, address and telephone number of the person representing the protesting bidder.

2.23.2 The bidder filing the protest shall concurrently transmit a copy of the protest document and any attached documentation to all other bidders with a direct financial interest who may be adversely affected by the outcome of the protest, including all other bidders who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.

2.23.3 Owner will issue a prompt decision on the protest. If Owner determines that a protest is frivolous, the party originating the protest may be determined to be irresponsible and that party may be determined to be ineligible for future contract awards.

2.23.4 The procedure and time limits set forth in this section are mandatory and are the bidder's sole and exclusive remedy in the event of a bid protest. Failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code claim, lawsuit or other legal proceeding.

2.23.5 For purposes of this section, a "bid protest" means any protest, objection, complaint or challenge to, concerning or against (a) a rejection of a bidder for any reason, (b) a contract award to the apparent low bidder, (c) another bidder's bid, or (d) the legality or enforceability of the bid documents.

2.24 INELIGIBLE BIDDERS

Owner shall not accept a bid from a bidder who is ineligible to bid or work on, or be awarded, a public works project pursuant to California Labor Code § 1777.1 or 1777.7. The Bidder who is awarded the project contract shall not utilize, or allow work by, any

subcontractor who is ineligible to bid or work on, or be awarded, a public works project pursuant to California Labor Code § 1777.1 or 1777.7. (See California Public Contract Code § 6109.) The California Division of Labor Standards Enforcement publishes a list of debarred VENDORS and subcontractor on the Internet at www.dir.ca.gov/DLSE/debar.html.

SECTION 3. CONTRACT FORMS

[The remainder of this page is intentionally left blank.]

3.1 CONTRACT PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT ("Agreement") is made this ___ day of _____ 20__ (the "Effective Date"), by and between the Grizzly Flats Community Services District, a California special district (hereinafter referred to as "DISTRICT"), and _____, a _____ (hereinafter referred to as "VENDOR"). DISTRICT and VENDOR may be collectively referred to as "Parties" or individually as "Party." There are no other parties to this Agreement.

RECITALS

WHEREAS, DISTRICT has a need for _____ (the "Products"); and

WHEREAS, VENDOR has made a proposal to DISTRICT to provide the Products, attached hereto as Exhibit A and incorporated herein by this reference. A description of the Products VENDOR proposes to provide is included in Exhibit A.

WHEREAS, DISTRICT desires to purchase the Products from VENDOR, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and covenants set forth below, the Parties mutually agree as follows:

AGREEMENT

1. RECITALS: The recitals set forth above ("Recitals") are true and correct and are hereby incorporated into and made part of this Agreement by this reference. In the event of any inconsistency between the Recitals and Section 1 through 31 of this Agreement, Sections 1 through 31 shall prevail.

2. PURCHASE OF PRODUCT: VENDOR agrees to sell, and DISTRICT agrees to purchase, the Products described in Exhibit A.

3. COMPENSATION: DISTRICT agrees to pay VENDOR a total of _____ Dollars (\$_____) as full remuneration for supplying the Products and furnishing all materials called for in Exhibit A and for performance by VENDOR of all of its duties and obligations under this Agreement. In no event shall the total amount paid by DISTRICT under this Agreement exceed _____ Dollars (\$_____). VENDOR agrees that compensation shall be paid in the manner and at the times set forth below:

(a) Invoices: VENDOR shall submit dated and detailed invoices to DISTRICT specifying the product, the date, location and service rendered, if applicable, and the charge therefor.

(b) Payment: Twenty percent (20%) upon approval of submittals, eighty percent (80%) upon delivery.

4 TERM OF AGREEMENT: This Agreement shall begin on the Effective Date and will end on _____, 20__.

5. INDEMNIFICATION: VENDOR shall indemnify, protect, defend, and hold harmless DISTRICT, to the fullest extent permitted by law, and all of its elective, and appointive boards, officers, officials, agents, employees, or volunteers ("DISTRICT'S AGENTS") from and against any and all losses, liabilities, damages, costs, and expenses, including legal counsel fees and costs, arising out of VENDOR's breach of its obligations, representations, warranties, or covenants under this Agreement. VENDOR shall not be liable for any misuse or unauthorized modification of the Products or damage to the Products caused by DISTRICT or DISTRICT'S AGENTS.

6. INDEPENDENT CONTRACTOR RELATIONSHIP: All acts of VENDOR, its agents, officers, and employees and all others acting on behalf of VENDOR relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of DISTRICT. VENDOR, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of DISTRICT. VENDOR has no authority or responsibility to exercise any rights or power vested in the DISTRICT. No agent, officer, or employee of the DISTRICT is to be considered an employee of VENDOR. It is understood by both VENDOR and DISTRICT that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

VENDOR, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of DISTRICT.

VENDOR shall determine the method, details, and means of supplying the Products to DISTRICT under this Agreement. VENDOR shall be responsible to DISTRICT only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to DISTRICT's control with respect to the physical action or activities of the VENDOR in fulfillment of this Agreement. VENDOR has control over the manner and means of performing under this Agreement. VENDOR is permitted to provide products and services to others during the same period service is provided to DISTRICT under this Agreement. If necessary, VENDOR has the responsibility for employing other persons or firms to assist VENDOR in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by VENDOR, such persons shall be entirely and exclusively under the direction, supervision, and control of VENDOR. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the VENDOR.

It is understood and agreed that as an independent contractor and not an employee of DISTRICT neither the VENDOR or VENDOR'S assigned personnel shall have any entitlement as a DISTRICT employee, right to act on behalf of DISTRICT in any capacity whatsoever as an agent, or to bind DISTRICT to any obligation whatsoever.

As an independent contractor, VENDOR hereby indemnifies and holds DISTRICT harmless from any and all claims that may be made against DISTRICT based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

7. TERMINATION:

(a) Termination on Notice. Either Party may terminate this Agreement for any reason prior to DISTRICT's remittance of the first payment made pursuant to Section 3 of this Agreement.

(b) Termination for Material Breach. Should either Party fail to substantially perform its obligations in accordance with the provisions of this Agreement, the other Party shall thereupon have the right to cancel the Agreement by giving written notice and specifying the effective date of such cancellation. Neither Party waives the right to recover damages against the other for breach of this Agreement, including any amount necessary to compensate DISTRICT for all detriment proximately caused by VENDOR's failure to perform its obligations hereunder or which in the ordinary course of things would be likely to result therefrom. DISTRICT reserves the right to offset such damages against any payments owed to VENDOR.

DISTRICT shall not in any manner be liable for VENDOR's actual or projected lost profits had VENDOR completed the sale required by this Agreement.

8. CONFORMANCE WITH FEDERAL AND STATE LAW: All equipment, supplies and products used by VENDOR in the performance of this Agreement shall conform to the laws of the government of the United States and the State of California.

9. NONDISCRIMINATION: In connection with the execution of this Agreement, VENDOR shall not discriminate against any employee or applicant for employment because of age, race, religion, color, sex, or national origin. VENDOR shall take affirmative action to ensure that applicants are employed, and the employees are treated during their employment, without regard to their age, race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, promotions, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. VENDOR shall also comply with the requirement of Title VII of the Civil Rights Act of 1964 (P.L. 88-352) and with all applicable regulations, statutes, laws, etc., promulgated pursuant to the civil rights acts of the government of the United States and the State of California now in existence or hereafter enacted.

10. TIME: Time is of the essence in this Agreement.

11. ENTIRE AGREEMENT AND MODIFICATION: This Agreement supersedes all previous Agreements and constitutes the entire understanding of the Parties hereto. VENDOR shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both Parties. VENDOR specifically acknowledges that in entering into and executing this Agreement, VENDOR relies solely upon the provisions contained in this Agreement and no others.

12. OBLIGATIONS OF VENDOR: Throughout the term of this Agreement, VENDOR shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. VENDOR warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the DISTRICT with the Products contemplated by this Agreement. VENDOR further represents that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

13. OWNERSHIP OF DOCUMENTS: All reports, data, drawings, plans, designs, specifications, graphics, calculations, working papers, models, flow diagrams, visual aids, and other incidental work or materials furnished hereunder shall become and remain the property of the VENDOR, and may be used by VENDOR as it may require without any additional cost to VENDOR. No reports shall be used by the VENDOR for purposes other than this contract without the express prior written consent of DISTRICT.

14. NEWS AND INFORMATION RELEASE: VENDOR agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from DISTRICT through the General Manager.

15. INTEREST OF VENDOR: VENDOR warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its performance of under this Agreement. VENDOR warrants that, in performance of this Agreement, VENDOR shall not employ any person having any such interest. VENDOR agrees to file a Statement of Economic Interests with the District Board Clerk at the start and end of this contract, if so required at the option of DISTRICT.

16. AMENDMENTS: Both Parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for DISTRICT or VENDOR to modify this Agreement. Any material extension or change in the Products shall be discussed with DISTRICT and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

17. PATENT/COPYRIGHT MATERIALS: Unless otherwise expressly provided in the contract, VENDOR shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement. VENDOR shall furnish a warranty of such right to use to DISTRICT at the request of DISTRICT.

18. PARTIAL INVALIDITY: If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

19. WAIVER: The waiver by any Party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

20. GOVERNING LAW: This Agreement shall be governed according to the laws of the State of California.

21. VENUE: Venue for all legal proceedings shall be in the Superior Court of California, in and for the County of El Dorado.

22. HEADINGS NOT CONTROLLING: Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

23. COMPLIANCE WITH LAWS: VENDOR shall ensure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws including, but not limited to, prevailing wage laws, if applicable. VENDOR shall fully comply with all applicable federal, state, and local laws, ordinances, regulations, and permits.

24. ASSIGNMENT: This Agreement is binding upon DISTRICT and VENDOR and their successors. Except as otherwise provided herein, neither DISTRICT nor VENDOR shall assign, sublet, or transfer interest in this Agreement or any part thereof without the prior written consent of the other.

25. EXCLUSIVE USE: The Products provided within the scope of this Agreement is for the exclusive use of DISTRICT and VENDOR agrees that, until final approval by DISTRICT, all data, plans, specifications, reports, and other documents specific to DISTRICT's use of the Products will not be released to third parties by VENDOR without the prior written consent of DISTRICT.

26. EMPLOYMENT OF DISTRICT OFFICIAL OR EMPLOYEE: VENDOR shall employ no DISTRICT official or employee in the work performed pursuant to this Agreement. No officer or employee of DISTRICT shall have any financial interest in this Agreement in violation of California Government Code section 1090 *et seq.*; nor shall DISTRICT violate any provision of its Conflict of Interest Code adopted pursuant to the provisions of California Government Code section 87300 *et seq.*

27. NOTICE: Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail, if delivery is by postage paid, registered, or certified (return receipt requested) mail. Each such notice shall be sent to the Parties at the address respectively indicated below or to any other address as the respective Parties may designate from time to time:

If to VENDOR:

If to DISTRICT:

**Grizzly Flats Community Services District
ATTN: General Manager
4765 Sciaroni Rd
Grizzly Flats, CA 95636
Phone: (530) 622-9626**

With courtesy copy to:

**White Brenner LLP
Attn: Barbara A. Brenner
1608 T Street
Sacramento, CA 95811
Phone: (916) 468-0950**

28. AUTHORITY: All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles, and capacities herein stated on behalf of any entities, persons, states, or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by state or federal law in order to enter into the Agreement have been fully complied with. Further, by entering into this Agreement, neither Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

29. SEVERABILITY: If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is

rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date of this Agreement, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.

30. COUNTERPARTS. This Agreement may be executed simultaneously, and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

31. ATTORNEY'S FEES AND COSTS: If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

[Signatures to Follow]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by and through their respective officers thereunto duly authorized.

DISTRICT:

VENDOR:

**Grizzly Flats Community Services District,
a California special district**

_____, a

By: _____

Kim Gustafson, General Manager

Date: _____

By: _____

Title: _____

Print name: _____

Date: _____

APPROVED AS TO FORM:

By: _____

Barbara A. Brenner, General Counsel

3.2 SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS

The work is financed in part with Federal assistance and therefore Federal laws, regulations, policies, and related administrative procedures apply. The Contractor must comply with all applicable Federal laws, regulations, policies, and related administrative practices. The most recent of such Federal laws, regulations, policies and related administrative practices at the time will govern the contract, where applicable. Likewise, new Federal laws, regulations, policies and administrative practices may be established after the date the selected Bidder and the Owner execute the contract, but may apply to the contract. The VENDOR must ensure compliance by its Subcontractors with and include appropriate flow down provisions in each of its lower-tier subcontracts as required by applicable Federal laws, regulations, policies, and related administrative practices.

Notwithstanding anything to the contrary contained in this RFP or the Purchase Agreement, all federally mandated terms shall be deemed to control in the event of a conflict with other provisions contained herein. The VENDOR shall not perform any act, fail to perform any act, or refuse to comply with any Owner requests, which would cause the Owner to be in violation of federal requirements.

3.2.1. Compliance with Federal Requirements

VENDOR's failure to comply with any applicable federal requirements shall constitute a breach of the contract.

3.2.2. Federal Procurement Standards

During the performance of this contract, the VENDOR agrees as follows:

A. Regulation 41 C.F.R. Part 60-1.4(b) requires the following:

1. The VENDOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The VENDOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The VENDOR will, in all solicitations or advertisements for employees placed by or on behalf of the VENDOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

3. The VENDOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The VENDOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The VENDOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the VENDOR's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The VENDOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The VENDOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the VENDOR becomes involved in, or is threatened with, litigation with a subcontractor or sub-vendor as a result of such direction by the administering agency the VENDOR may request the United States to enter into such litigation to protect the interests of the United States.

B. Regulation 29 C.F.R. § 5.5(b), compliance with the *Contract Work Hours and Safety Standards Act* requires the following:

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless

such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
3. Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

C. Clean Air Act and the Federal Water Pollution Control Act.

Contracts of amounts in excess of \$150,000 require compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-

7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387), as follows:

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
4. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
5. The contractor agrees to report each violation to the State of California Water Resources Control Board, and will, in turn, report each violation as required to assure notification to the Owner, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

D. Suspension and Debarment

1. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
2. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
3. This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government

may pursue available remedies, including but not limited to suspension and/or debarment.

4. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

E. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended).

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

F. Procurement of Recovered Materials.

Comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962).

1. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired;
2. Competitively within a timeframe providing for compliance with the contract performance schedule;
3. Meeting contract performance requirements; or
4. At a reasonable price.
5. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

G. DHS Seal, Logo, and Flags.

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval.

H. No Obligation by Federal Government.

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

I. Program Fraud and False or Fraudulent Statements or Related Acts.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

3.2.3. Safety Oversight

To the extent applicable, the VENDOR agrees to comply with any Federal regulations, laws, or policies and other guidance that any local, state, or federal authority may issue pertaining to safety oversight in general, and in the performance of the work, in particular.

3.2.4. Environmental Protection

The VENDOR and any subcontractor under this Agreement shall comply with all applicable environmental requirements and regulations, including any amendments, as follows:

A. Clean Air: The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Sections 7401 et seq. The Contractor agrees to report each violation to the Owner, and understands and agrees that the Owner shall, in turn, report each violation as required to assure notification to the appropriate Environmental Protection Agency Regional Office.

B. Clean Water: The VENDOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The VENDOR agrees to report each violation to the Owner, and understands and agrees that the Owner shall, in turn, report each violation as required to assure notification to the appropriate EPA Regional Office.

C. Energy Conservation: The VENDOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6421 et seq.)

D. Agreement Not To Use Violating Facilities: The VENDOR agrees not to use any facility to perform work hereunder that is listed on the List of Violating Facilities maintained by the EPA. The VENDOR shall promptly notify the Owner if the VENDOR

or any subcontractor receives any communication from the EPA indicating that any facility which will be used to perform work pursuant to Purchase Agreement is under consideration to be listed on the EPA's List of Violating Facilities; provided, however, that the VENDOR's duty of notification hereunder shall extend only to those communications of which it is aware, or should reasonably have been aware.

E. Environmental Protection: The VENDOR shall comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. Sections 4321 et seq.

F. Incorporation of Provisions: The VENDOR shall include the above provisions (A) through (F) in every subcontract hereunder exceeding \$50,000 financed in whole or in part with federal assistance.

3.2.5. ARPA Funded Project

Funding for the Purchase Agreement has been provided through the America Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. 111-5. All contractors, including both prime and subcontractors, are subject to audit by appropriate federal or State of California (State) entities. The State has the right to cancel, terminate, or suspend the Purchase Agreement if any VENDOR, contractor, or subcontractor fails to comply with the reporting and operational requirements contained herein.

3.2.6. Enforceability

VENDOR agrees that if the VENDOR or one of its subcontractors fails to comply with all applicable federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds allowing an audit. This provision is in addition to all other remedies available to the State under all applicable State and federal laws.

3.2.7. Prohibition on Use of ARPA Funds

VENDOR agrees in accordance with ARRA, Section 1604, that none of the funds made available under the Purchase Agreement may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

3.2.8. Access and Inspection of Records

A. In accordance with ARRA Sections 902, 1514, and 1515, the VENDOR agrees that it shall permit the State of California, the United States Comptroller General, or their representatives or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to:

i. Access and reproduce any books, documents, papers and records of the VENDOR that directly pertain to, and involve transactions relating to, this Agreement for the purposes of making audits, examinations, excerpts and transcriptions; and

ii. Interview any officer or employee of the VENDOR or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by ARRA.

B. Pursuant to 49 C.F.R. Section 18.26(i)(11), 49 C.F.R. Section 19.26, or A-133 (whichever applicable), the VENDOR agrees to maintain all books, records, accounts and reports required under the Purchase Agreement for a period of not less than three years after the date of termination or expiration of the Purchase Agreement, except in the event of litigation or settlement of claims arising from the performance of the contract, in which case the VENDOR agrees to maintain same until the Owner, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims, or exceptions related thereto. The VENDOR shall notify the Owner not less than six months prior to disposal of any books, records, accounts and reports required under the Purchase Agreement.

C. The VENDOR agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. Section 552(a).

The VENDOR shall include this provision in all lower-tier subcontracts.

3.2.9. Whistleblower Protection

The VENDOR agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-federal contractors, including the state, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of:

- A. Gross mismanagement of a contract relating to ARRA funds;
- B. Gross waste of ARRA funds;
- C. A substantial and specific danger to the public health or safety related to the implementation or use of ARRA funds;
- D. An abuse of authority related to implementation or use of ARRA funds; or
- E. A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contractor) awarded or issued relating to ARRA funds.

The VENDOR agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.

3.2.10. Fraud and False Claims Act

The VENDOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986 (6 C.F.R. Part 13), as amended, 31 U.S.C. Section 3801 et seq. apply to its

actions pertaining to the Purchase Agreement. Upon execution of the Purchase Agreement, the VENDOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Purchase Agreement or the federally funded project, for which work is being performed under the Purchase Agreement. In addition to other penalties that may be applicable, the VENDOR further acknowledges that if it makes or causes to be made, a false, fictitious or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 as cited above on the VENDOR to the extent the Federal Government deems appropriate.

The VENDOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the federal government under a contract connected with a project that is financed in whole or in part with Federal assistance, the federal government reserves the right to impose the penalties of 18 U.S.C. Section 1001 or any other applicable law on the VENDOR, to the extent the federal government deems appropriate.

The VENDOR agrees that it shall promptly notify the Owner and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor, or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.

The VENDOR agrees to include the above paragraphs in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the paragraphs shall not be modified, except to identify the subcontractor who will be subject to the provisions.

3.2.11. Small Business/Disadvantaged Business Enterprises

The Owner encourages the VENDOR to utilize small business concerns owned and controlled by socially and economically disadvantaged individuals, also known as Disadvantaged Business Enterprises (DBE), in carrying out the contract.

The VENDOR shall comply with 41 C.F.R. Part 60, Best Practices of 49 C.F.R. Part 26, Executive Order 11246 and Title VI of the Civil Rights Act of 1964 and related statutes.

3.2.12. Patent Rights

A. If any invention, improvement, or discovery of the VENDOR or any of its third-party contractors is conceived or first actually reduced to practice in the course of or under the Purchase Agreement, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the VENDOR agrees to notify the Owner immediately and provide a detailed report. The rights and responsibilities of the Federal Government, third-party contractors, and the Owner with respect to such invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, policies, and any waiver thereof.

B. If the VENDOR secures a patent with respect to any invention, improvement, or discovery of the VENDOR or any of its third-party contractors conceived or first actually reduced to practice in the course of performing or under the Purchase Agreement, the VENDOR agrees to grant the Federal Government a royalty-free, non-exclusive, and irrevocable license to use and authorize others to use the patented device or process for Federal Government purposes.

C. The VENDOR agrees to include the requirements of this "Patent Rights" provision in its third-party contracts for planning, research, development, or demonstration under the Purchase Agreement.

D. "Proprietary data" is data that the VENDOR has identified in a satisfactory manner as being under the VENDOR's control prior to commencement of performance of the Purchase Agreement, and that the VENDOR has reasonably demonstrated as being of a proprietary nature by reason of copyright, patent, or trade secret doctrines in full force and effect at the time when performance of the Purchase Agreement is commenced. The title to "proprietary data" shall remain with the VENDOR throughout the term of the Purchase Agreement and thereafter.

E. "Generated data" is data that the VENDOR has collected, collated, recorded, deduced, read out, or postulated for utilization in the performance of the Purchase Agreement. "Generated data," as defined herein, shall not include data developed solely from preexisting or proprietary data owned by the VENDOR prior to the execution of the Purchase Agreement. Any electronic data processing program, model, or software system developed or substantially modified by the VENDOR in the performance of the Purchase Agreement at the Owner's expense, together with complete documentation thereof, shall be treated in the same manner as "generated data." "Generated data" shall be the property of the Owner, unless and only to the extent that it is specifically provided otherwise in the Purchase Agreement.

3.3 VENDOR CERTIFICATE REGARDING WORKER'S COMPENSATION

To: _____

THE UNDERSIGNED STATES AND DECLARES THAT:

We are aware of the provisions of § 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and we will comply with such provisions before commencing the performance of the work of this contract.

VENDOR

(Company Name)

(State of Incorporation, if Corp.)

(Authorized Signature)

(Name)

(Title)

Address:

Phone Number:

3.4 NOTICE OF AWARD

To: _____

Project Description:
**GRIZZLY FLATS CSD WATER TREATMENT
IMPROVEMENTS PROJECT
WATER TREATMENT EQUIPMENT PRE-SELECTION AND PURCHASE**

The _____ (“Owner”) has considered the Bid Proposal submitted by you for the above described project dated _____.

You are hereby notified that your Bid Proposal has been accepted for items in the amount of \$ _____.

You are required by the Information for Bidders to execute the Agreement and furnish the required certificates of insurance within fifteen (15) calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said bonds within fifteen (15) days from the date of this Notice, said Owner will be entitled to consider all your rights arising out of Owner’s acceptance of your Bid as abandoned. Owner will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to Owner.

Dated this _____ day of _____ 20__.

[OWNER]

By: _____

Title: _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged by

this the _____ day of _____, 20____.

By:_____

Title:_____

3.5 GUARANTEE

3.5.1 In addition to warranties, representations and guarantees stated elsewhere in the Contract Documents implied-in-fact or in-law, VENDOR guarantees all materials and workmanship furnished hereunder, and agrees to repair or replace or both at its sole cost and expense, and to the satisfaction of Owner, any and all materials which may be defective or improperly installed for one (1) year following start up.

3.6. INSURANCE

VENDOR shall procure and maintain for the duration of the Work the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by VENDOR, its agents, representatives, employees or subcontractors.

3.6.1 Minimum Scope of Insurance. Coverage shall be at least as broad as:

- a. Commercial general liability coverage (Insurance Services Office occurrence form CO 0001), including liability coverage for premises and operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual liability, use of independent VENDORS, and broad form property damage with completed operations.
- b. Automobile liability coverage (Insurance Services Office form CA 0001, code I, any auto).
- c. Workers' compensation insurance as required by the State of California and employer's liability insurance.

3.6.2 Minimum Limits of Insurance. VENDOR shall maintain limits no less than:

- a. General Liability: \$5,000,000 per occurrence for bodily injury, personal injury and property damage. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- b. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- c. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

The above insurance limits can be met through provision of umbrella or excess policy insurance coverage consistent with the provisions of this Section 5.52.

3.6.3 The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

A. Owner and its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed

by or on behalf of VENDOR, products and completed operations of VENDOR; premises owned, occupied or used by VENDOR; or automobiles owned, leased, hired or borrowed by VENDOR. The coverage shall contain no special limitations on the scope of protection afforded to Owner and its officers, officials, employees, agents or volunteers. The additional insured coverage or endorsement shall comply with California Insurance Code § 11580.04.

B. For any claims related to this project, VENDOR's insurance coverage shall be primary insurance as respects Owner and its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by Owner, and its officers, officials, employees, agents or volunteers shall be excess of VENDOR's insurance and shall not contribute with it.

C. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to Owner and its officers, officials, employees, agents or volunteers.

D. VENDOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

E. VENDOR agrees that insurance coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits except after thirty (30) days' prior written notice by U.S. mail has been given to Owner. VENDOR shall provide to Owner its insurance certificate with a cancellation provision stating that Owner shall be notified of any change in the policy at least thirty (30) days before any such change is made.

3.6.4 Verification of Coverage. Prior to commencing work, VENDOR shall provide to Owner the following proof of insurance: (a) certificate(s) of insurance on ACORD Form 25-S (or insurer's equivalent) evidencing the required insurance coverages; and (b) endorsement(s) on ISO Form CG 2010 (or insurer's equivalent), signed by a person authorized to bind coverage on behalf of the insurer(s) and certifying the additional insured coverages, or equivalent additional insured blanket endorsement. Owner reserves the right to require complete copies of all required insurance policies and/or endorsements affecting required insurance coverage at any time.

3.6.5 Subcontractors. VENDOR shall include all actions and activities of its subcontractors as insureds under its policies, or shall require each subcontractor to provide insurance coverage consistent with the provisions herein, except that each subcontractor will be required to maintain minimum general liability coverage of \$1,000,000 per occurrence for bodily injury, personal injury and property damage, and to furnish separate endorsements or certificates to Owner. All coverages for subcontractors shall be subject to all of the other requirements stated in this section.

3.6.6 Any products/completed operations insurance coverage shall be maintained after completion of the project for the full guarantee period.

3.6.7 The requirements as to the types, limits, and Owner's approval of insurance coverage to be maintained by VENDOR are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by VENDOR under the Agreement.

3.6.8 In addition to any other remedy Owner may have, if VENDOR or any of the subcontractors fails to maintain the insurance coverage as required in this section 3.6, Owner may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as required herein, and Owner may deduct the cost of such insurance from any amounts due or which may become due VENDOR under this Agreement.

3.7 INDEMNITY AND LITIGATION COST

3.7.1 To the fullest extent allowed by law, VENDOR shall protect, defend, indemnify and hold harmless Owner, its officers, directors, agents, employees, volunteers, and consultants from and against all penalties and fines imposed by law and all loss, claim, cause of action, demand, suit, judgment, cost, damage, expense, and liability (including but not limited to court or arbitration costs and reasonable attorneys' and expert witness fees) resulting from injury to or death of any persons, including without limitation employees of Owner and VENDOR, or damage to or loss of property, caused by, arising out of or in any way connected with VENDOR's or its subcontractors' or suppliers' performance, operations or activities under this Agreement, except to the extent the sole negligence, active negligence or willful misconduct of an indemnified party proximately causes the loss, claim, cost, suit, judgment, penalty, or liability. Upon the request of an indemnified party hereunder, VENDOR shall defend any suit asserting a claim covered by this indemnity and shall pay any cost that may be incurred by an indemnified party in enforcing this indemnity. In all cases, the indemnified party shall have the right to approve counsel selected by VENDOR in the defense of any legal action or with respect to any claim, which approval shall not be unreasonably withheld. In addition, the indemnified party shall have the right to participate in and be represented by counsel of its own choice and at its own expense in any legal action or with respect to any claim. These duties of VENDOR to indemnify and save the Owner harmless include the duties to defend set forth in California Civil Code Section 2778.

3.7.2 Owner may withhold from payment due VENDOR hereunder such amounts as, in Owner's opinion, are sufficient to provide security against all loss, damage, expense, penalty, fine, cost, claim, demand, suit, cause of action, judgment, or liability covered by the foregoing indemnity provision.

3.7.3 In any and all claims against Owner, its consultants, officers, directors, employees and agents by any employee of VENDOR, any subcontractor, anyone directly

or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for VENDOR, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable under Worker's Compensation statutes, disability benefit statutes or other employee benefit statutes.

3.7.4 Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release VENDOR from its obligations to indemnify, so long as the event upon which the claim is predicated shall have occurred prior to the effective date of any such termination or completion and arose out of or was in any way connected with performance or operations under this Agreement by VENDOR, its employees, agents, suppliers or subcontractors, or the employee, agent or subcontractor of anyone of them.

3.7.5 Submission of insurance certificates or submission of other proof of compliance with the insurance requirements in this Agreement does not relieve VENDOR from liability under this indemnification and hold harmless clause. The obligations of this indemnity section shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

3.7.6 In accordance with California Public Contract Code § 920I(b), if Owner receives any written third-party claim relating to work performed under this Agreement, then Owner agrees to promptly notify VENDOR about the third-party claim.

3.8. WATER TREATMENT MODULE PERFORMANCE, EQUIPMENT, AND OTHER REQUIREMENTS

3.8.1 Water Treatment Module Application and Use

The Grizzly Flats Community Services District (Owner) is soliciting bids for water treatment modules (WTM) to replace two (2) aging water treatment modules currently in use. The OWNER provides treated surface water to approximately 300 connections, with plans for expansion to approximately 600 connections in the next 10 - 20 years.

The OWNER is requesting bids for WTM's to pre-select the equipment in advance of preparing engineered plans and specifications for the replacement of the existing WTM's. Once the WTM's are selected, the OWNER can provide detailed information to contractors bidding the installation of the new WTM's, including the WTM geometry, weight, and the location of influent, effluent, backwash supply, backwash effluent, power, chemical, and other connection points and characteristics, as well as any modifications to existing improvements that may be necessary.

Due to time constraints associated with funding and existing WTM deficiencies, the OWNER does not have time or budget for pilot testing. Hence, WTM's must be a

prefabricated product whereby options can be selected by the purchaser, but not a unique or custom engineered design. WTM's must have previously approved use in and by the State of California Water Board for the purpose intended. Because the OWNER maintains minimal operations staff, manufacturer's must offer a technical service and support program for the equipment, including but limited to, trained technicians available to service the WTM's.

Requirements for the WTM's are provided herein, including and performance, manufacturing, and equipment criteria, WTM State regulatory approvals, and history of successful operation.

3.8.2 Source Water Quality

Source water is surface water from local creeks, and is generally of high quality with turbidity typically less than 10 NTU. Water from the creeks is stored in a small reservoir prior to treatment, where some settling occurs. The OWNER can further control turbidity by closing the creek supply to the reservoir during and after storm events, if necessary. During the winter, temperatures can cause the reservoir water to fall to below 10 degrees Celsius. Source water pH is approximately 7.0 +/- 0.5. Some recent water quality data is attached, but additional water quality data can be provided upon request.

3.8.3 Performance Criteria

The WTM must provide the minimum performance criteria listed herein. No exceptions to the minimum performance criteria are allowed.

- WTM shall be a packaged water treatment system, designed and fabricated for the purpose of treating surface water to meet federal and California SDWA and drinking water standards.
- WTM system/process shall meet or exceed applicable state and federal drinking water requirements for the treatment of surface water for use as a potable drinking water supply.
- Provide conventional level treatment including rapid chemical mixing, coagulation, clarifier (settling), and filtration. *Direct filtration is not allowed.*
- Can successfully treat influent/source water up to 75 NTU.
- WTM can successfully treat influent/source water to temperatures as low as 5 degrees Celsius.
- Chemical additives required for the treatment process shall be limited to coagulants and polymers. Module/process will allow chlorine dosing at beginning and middle of process as an option.

- WTM shall include the following automated process modes: Filtration/production, filter backwash, settling tank flush, and filter-to-waste.
- WTM shall consist of a pre-engineered system, include all processes in a single, shippable vessel.
- WTM shall be pre-approved by the State of California, Division of Drinking Water for the following removal credits without need for pilot testing or additional regulatory review:
 - 2 log cryptosporidium
 - 2.5 log giardia
 - 2 log virus
- WTM shall provide gravity filtration at design loading rate of no more than 5 gpm/ft² and capacity of no less than 175 gpm.
- WTM gravity filter backwash rate shall not exceed 15 gpm/ft².
- Water treatment process shall be fully automated, including chemical injection and mixing, coagulation, settling, filtration, backwash, and filter-to-waste.
- Process shall require no additional processes or chemicals other than those stated above.

3.8.4 Water Treatment Module and Equipment Requirements

The WTM and components will comply with the following requirements:

- All materials, components, and equipment that will be in contact with treated water shall be NSF 61 certified.
- The size of the WTM vessel shall not exceed 9' width, 18' length, and 8' tall.
- The operating weight of the WTM shall not exceed 70,000 lbs.
- Filter shall consist of a multi-media filter and include the following: Anthracite (18" minimum depth), silica sand (9" minimum depth) and garnet.
- WTM shall include a standard air/scour process as part of the filter backwash.
- Process control valves shall consist of either electrically actuated butterfly valves with nylon coated disk, EPDM seat, and NEMA 4 enclosures (Bray or approved equal), or diaphragm hydraulically actuated globe valves (ClaVal or approved equal).

- Vessel interior have three (3) layers of epoxy coatings with minimum DFT of 14 mils, conform to AWWA D102 Inside Systems and NSF 61 certified.
- Vessel exterior shall have two (2) layers of coatings with DFT of no less than 8 mils.
- Provide factory programmed Programmable Logic Controller (PLC) for automated process control, Allen Bradley Control Logix or approved equal. PLC programming shall have ability to run in manual, semi-manual, and fully automated modes.
- Provide OIT panel for operator interface, mounted in NEMA 12 panel.
- Provide UPS, SCADA interface connection, and cellular card (to allow remote operator access via smartphone).
- Provide variable speed, rapid chemical and coagulation mixers.
- All instruments required for a fully automated process shall be provided, including but not limited to the following:
 - Turbidimeters (influent and effluent)
 - Level transmitters
 - Streaming Current Monitor
 - Chlorine Analyzer
 - Filter differential pressure transmitter
- All equipment, components, and wiring shall be factory installed, tested, and shipped ready for installation, excluding media (installed at project site by contractor). Any on-site installation of any part or component not performed in the factory prior to shipping shall be completed by a certified WTM representative at prevailing wage rates. These costs shall be included as part of the bid cost.

3.8.5 Other Requirements

Manufacturers of WTM's must meet the following minimum requirements:

- The proposed WTM must be pre-approved by the State of California, Division of Drinking Water to treat surface water for use as a potable water supply meeting the performance criteria listed herein.
- Manufacturer shall provide documentation of at least five (5) installations and three (3) years of successful operation in California for the WTM model or unit proposed.

- Manufacturer shall have an established service program that includes available technicians to assist with operations and perform repairs of the WTM, upon request by the Owner.
- Manufacturer shall provide 24/7 telephone technical assistance.
- Manufacturer assistance shall include ordering of spare and replacement parts, as needed.

3.8.6 Excluded Equipment

The following equipment is not required as part of the WTM purchase:

- Chemical dosing pumps
- Backwash pump
- Effluent pump
- Materials/labor to connect WTM to existing improvements (influent, effluent, backwash supply, backwash/clarifier/filter-to-waste outlets, power, chemical dosing, and SCADA). Provisions for monitoring and controlling all these shall be included.

3.8.7 Contract Requirements

WTM manufacturer shall provide complete and fully functional WTM(s) for the purposes described herein, including the following as part of the cost of WTM purchase:

- WTM submittals (description of WTM, drawings (CAD and pdf files), list of components and product/"cut" sheets, etc.); The OWNER will incorporate WTM vendor's CAD drawings into project bid documents to show the complete installation with all hydraulic, electrical, control and data connections.
- WTM design, fabrication, assembly, and factory testing;
- WTM transport and delivery to OWNER job site;
- Spare parts for instruments (see attached list);
- Any remaining labor necessary to complete assembly of WTM after delivery and/or installation (must be at prevailing wage rates);
- Oversight of media installation and other work, as needed;
- Start up services (dosing adjustments, mixing speed adjustments, PLC set-points, verification that all systems and components are connected and working properly);

- Operator training;
- Operation manuals and drawings;
- PLC programming (annotated program listing and downloadable copy of the final version of the PLC programming). Listing shall include PLC register mapping and other information needed for the SCADA vendor to access the PLC data for logging, charting, report generation, remote alarms, etc;
- SCADA connection and cellular card.