



Anton H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Administrative Services

1001 I Street • Sacramento, California 95814 • (916) 341-5082 • FAX (916) 341-5060
Mailing Address: P.O. Box 100 • Sacramento, California 95812-0100
Internet Address: <http://www.swrcb.ca.gov>



Gray Davis
Governor

MAR 20 2001

RECEIVED

MAR 26 2001

City Manager

City of San Diego
Attn: Michael Uberuaga
202 C Street
San Diego, CA 92101



MWWDPGROG

RE: AGREEMENT NO. 99-841-550-0



2001063397

Enclosed for your records is a fully executed copy of the above referenced agreement. Please take a few minutes to thoroughly read through it to be sure you understand all the terms and conditions.

Request for payment of services completed outside the term of this contract WILL NOT BE PAID. It is imperative that you notify your State Water Resources Control Board Contract Manager immediately, in writing, of any changes or delays that may impact the scope of work or term of this agreement.

If you have any questions about this agreement, please contact the State Water Resources Control Board Manager responsible for this agreement.

Paulina Martinez Buckley

Contracts Section
Division of Administrative Services

Enclosure(s)

SWRCB (Rev. 1/99)

California Environmental Protection Agency

STATE REVOLVING FUND LOCAL MATCH LOAN PROGRAM CONTRACT
BETWEEN THE
STATE WATER RESOURCES CONTROL BOARD
AND

CITY OF SAN DIEGO

CONTRACT NO. 8-841-550-0
LOAN NO. C-06-4690-110

This Local Match loan contract is made this 9th day of **June, 1999**, between the State of California, acting by and through the State Water Resources Control Board, hereafter referred to as the "SWRCB", and **City of San Diego**, a municipality of the State of California, hereafter referred to as the "Agency".

WHEREAS:

1. The federal Clean Water Act (33 U.S.C.A. §1251 et seq.) and state law (Division 7, Chapter 6.5, California Water Code) authorize the SWRCB to enter into contracts with municipalities and other public agencies for financial assistance for construction of publicly owned treatment works; and
2. The Agency has made application for a Local Match loan related to construction of the Project hereafter described, and said Project has been determined by the SWRCB to be eligible for a Local Match loan pursuant to applicable federal and state laws, rules, regulations and guidance; and
3. The SWRCB has authorized loan funding for the Project hereafter described. (See SWRCB Resolution No. 99-083, approved on September 16, 1999).

NOW, THEREFORE, It is Agreed as Follows:

SECTION 1. PROJECT DESCRIPTION.

The Project, commonly known as the **Point Loma Maintenance Building Expansion**, generally consists of the **construction a 4,300 square foot expansion at the maintenance building at the Point Loma Wastewater Treatment Plant**, as more particularly described in the Local Match loan application of the Agency and the approved plans and specifications for the project.

**SECTION 2. INCORPORATION OF DOCUMENTS; ORDER OF PRECEDENCE;
GENERAL AGENCY COMMITMENTS.**

This contract incorporates herein, or by reference, the documents listed below. In the event of any inconsistency in the contract documents, except as otherwise specifically provided, the inconsistency shall be resolved by giving precedence in the following order:

- (1) The provisions of this Local Match loan contract document; (2) the Local Match loan Contract Special Conditions (**Exhibit A**); (3) the Approval to Award letter (**Exhibit B**); (4) the Applicable Effluent Limitations and Approved Plans and Specifications (**Exhibit C**); (5) the Plans and Specifications Approval letter (**Exhibit D**); (6) the Facilities Plan Approval letters (**Exhibit E**); (7) the Preliminary Local Match loan Repayment Schedule and any amendments thereto (**Exhibit F**); and (8) the Local Match loan Contract Standard Conditions (**Exhibit G**).

The Agency accepts and agrees to comply with all terms, provisions, conditions, and commitments of this contract, including all incorporated documents, and to fulfill all assurances, declarations, representations, and commitments made by the Agency in its application, accompanying documents, and communications filed in support of its request for Local Match loan.

SECTION 3. STATE MATCH ACCOUNT.

The Agency will establish a local state match account. The Agency will deposit sufficient funds in the account to make payments to the contractor(s) in an amount equal to the percentage of federal contributions required by the federal Clean Water Act to be matched with state funds (currently 16.667%) and will include the required state match amount in all payments made to the contractor(s).

SECTION 4. ESTIMATED COST OF PROJECT.

The estimated reasonable cost of the total Project at the time of Board Approval, including associated planning and design costs, is **one million one hundred fifty thousand dollars (\$1,150,000)** to the Agency.

SECTION 5. MAXIMUM LOCAL MATCH LOAN AMOUNT.

Subject to all of the terms, provisions, and conditions of this contract, and subject to the availability of federal funds, the SWRCB will make a Local Match loan from the State Revolving Fund, created by Water Code Section 13477, in an amount not to exceed **one million thirty-one thousand six hundred fifty-three dollars (\$1,031,653)** to the Agency. This amount is based on the Approval to Award letter from the SWRCB dated April 19, 2000 (Exhibit B), and includes **eight hundred fifty-nine thousand seven hundred eight dollars (\$859,708)** from the State Revolving Fund Loan Account and **one hundred seventy-one thousand nine hundred forty-five dollars (\$171,945)** from the Agency local state match account described in Section 3.

SECTION 6. INTEREST RATE.

The Local Match loan interest rate shall be set at zero percent per annum.

SECTION 7. COMPLETION OF PROJECT.

The Agency agrees to expeditiously proceed with and complete construction of the Project in substantial accordance with Project plans and specifications approved by the SWRCB.

SECTION 8. PROJECT CERTIFICATION.

One year after Project completion, the Agency shall certify to the SWRCB whether or not the Project, as of that date, meets applicable design specifications and effluent limitations. If the Agency cannot certify that the Project meets such specifications and limitations at that time, the Agency will, at its own expense and in a timely manner, expeditiously make all needed corrections and perform all additional work necessary to allow affirmative certification for the Project.

Failure to submit an affirmative certification within 15 months, or a negative certification with a corrective action report that meets the above requirements and is satisfactory to the Division within 15 months, of the project completion date will result in an interest penalty of 0.1 percent per day being assessed on the

outstanding Local Match loan balance due. The interest penalty will begin on the first day after expiration of the appropriate deadline.

SECTION 9. DISBURSEMENT.

Local Match loan funds will be disbursed in accordance with the disbursement provisions of Exhibit G attached hereto.

SECTION 10. REPAYMENT OF LOCAL MATCH LOAN.

Local Match loan funds, including the state match described in Section 3, shall be repaid in accordance with the provisions of Exhibit G, attached hereto, and as indicated in appropriate Local Match loan Repayment Schedules in Exhibit F, also attached hereto.

SECTION 11. DEDICATED SOURCE OF REVENUE.

The Agency shall adopt an ordinance or resolution designating a source of revenue for repayment of this Local Match loan. The dedicated source of revenue shall comply with the requirements of the federal Clean Water Act and any applicable federal and state laws, rules and regulations and shall have received SWRCB approval.

The Agency shall at all times maintain sufficient revenue to provide reasonable assurance of repayment of this Local Match loan.

SECTION 12. SUBORDINATION AND FUTURE LOCAL DEBT.

- A. The obligation of the Agency to make all payments required by this contract to the SWRCB solely from Net System Revenues is subordinate in right of payment to Parity Obligations existing on the date of execution of this contract and additional Parity Obligations incurred pursuant to Section 11 (B) below.
- B. The Agency may incur additional Parity Obligations (the payments of which are senior or prior in right to the payment by the Agency of its obligations required by this contract (and all other contracts between the Agency and the SWRCB that, by their terms, expressly provide therefore)) provided that:
 - 1. All Parity Obligations (including the Parity Obligations proposed to be incurred) shall have an "A" rating (without regard to any refinement or gradation of such rating category by a numerical modifier or otherwise) or better by at least two nationally recognized rating agencies.
 - 2. The Agency fixes, prescribes and collects rates and charges for the Wastewater Service which will be sufficient to ensure that Net System Revenues to pay the obligations required by this contract are at least 1.1 times the current year's debt service on the obligations required by this contract.
- C. For purposes of this Section and Article 15, Paragraph (D) of Exhibit G the capitalized terms "Net System Revenues" and "Parity Obligations" and "Wastewater Service" shall have the meanings given to such terms in the certain Master Installment Purchase Agreement, dated as of September 1, 1993, between the Agency and the Public Facilities Financing Authority of the City of San Diego, as originally executed and as it may from time to time be amended or supplemented in accordance with the provisions thereof.

SECTION 13. FINANCIAL MANAGEMENT SYSTEM AND STANDARDS.

The Agency agrees to comply with federal standards for financial management systems. The Agency agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit preparation of reports required by the federal government and tracing of Local Match loan funds to a level of expenditure adequate to establish that such funds have not been used in violation of federal or state law or the terms of this contract. To the extent applicable, the Agency agrees to be bound by and to comply with the provisions and requirements of the federal Single Audit Act of 1984 (Pub. L. 98-502) and Office of Management and Budget (OMB) Circular No. A-128.

SECTION 14. ACCOUNTING STANDARDS.

The Agency will maintain separate Project accounts in accordance with generally accepted government accounting standards including those contained in the "Standards for Audit of Governmental Organizations, Programs, Activities and Functions" promulgated by the U.S. General Accounting Office.

SECTION 15. PROHIBITED CONTRACT.

The Agency agrees that it will preclude its contractors and subcontractors from contracting with any party which is debarred, suspended, or otherwise excluded from or ineligible for, participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension".

SECTION 16. COPYRIGHTS.

The Agency agrees that the U.S. Environmental Protection Agency shall have a royalty-free, nonexclusive and irrevocable license to reproduce, publish, otherwise use, and to authorize others to use, for federal government purposes: (a) the copyright in any work developed under this Local Match loan contract and (b) any rights of copyright which the Agency may purchase where costs of such purchase are reimbursed with Local Match loan funds.

SECTION 17. USER CHARGE SYSTEM.

The Agency shall adopt and maintain in effect a user charge system which at all times complies with the requirements of Section 204(b)(1) of the federal Clean Water Act and applicable federal and state rules, regulations and guidelines.

SECTION 18. OPERATION AND MAINTENANCE.

The Agency agrees to properly staff, operate and maintain all portions of the Project during its useful life in accordance with all applicable federal and state laws, rules and regulations.

SECTION 19. USEFUL LIFE OF PROJECT.

For purposes of this contract, the parties agree that the useful life of the Project is 20 years from and after Project completion.

SECTION 20. ASSIGNABILITY.

To the extent permitted by federal and state laws, rules, and regulations, the SWRCB may, assign, grant a security interest in, or otherwise encumber this contract and any right, or rights hereunder, including any payment or payments to be received hereunder.

SECTION 21. STATE REVIEWS AND INDEMNIFICATION.

The parties agree that review or approval of Project plans and specifications by the SWRCB is for administrative purposes only and does not relieve the Agency of its responsibility to properly plan, design, construct, operate, and maintain the Project. As between the SWRCB and the Agency, the Agency agrees that it has sole responsibility for proper planning, design, construction, operation, and maintenance of the Project, and the Agency agrees to indemnify the SWRCB, the State of California and their officers, agents, and employees against and to hold the same free and harmless from any and all claims, demands, damages, losses, costs, expenses, or liability due or incident to planning, design, construction, operation, or maintenance of the Project.

SECTION 22. TERM.

This contract shall take effect upon Department of General Services' approval of the contract, and the contract shall remain in effect for the useful life of the Project or until the date of final Local Match loan repayment, whichever period is longer, unless sooner terminated pursuant to the provisions hereof.

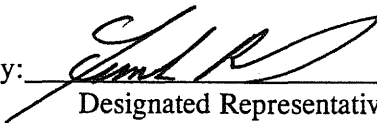
IN WITNESS THEREOF, the parties have executed this contract on the dates set forth below.

CITY OF SAN DIEGO
AGENCY

By: _____
Authorized Representative

Michael Uberuaga
Typed Name

City Manager
Title

By: 
Designated Representative

Frank Belock, Jr.
Typed Name

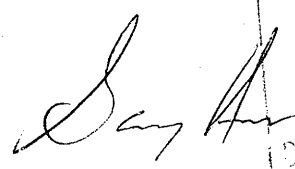
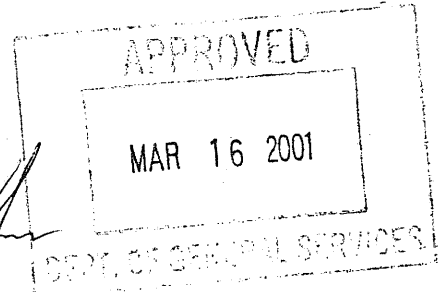
Deputy City Manager
Title

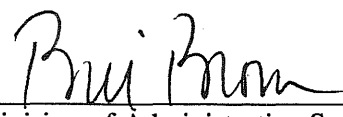
Dated: JAN 05 2001

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

STATE OF CALIFORNIA
DEPARTMENT OF GENERAL SERVICES

che

By: , Chief
Division of Administrative Services
2/8/01
DATE

Dated: _____
(Date Stamp)

EXHIBIT A

LOCAL MATCH LOAN CONTRACT SPECIAL CONDITIONS

No special conditions are attached to this loan.

EXHIBIT B

APPROVAL TO AWARD LETTER

See Approval to Award letter dated April 19, 2000. This letter explains how the maximum Local Match loan amount, as described in Section 4, was determined.



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Clean Water Programs

2014 T Street • Sacramento, California 95814 • (916) 227-4400
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120
FAX (916) 227-4349 • Internet Address: <http://www.swrcb.ca.gov>



Gray Davis
Governor

APR 19 2000

CERTIFIED MAIL NO. P 413 976 559
Return Receipt Requested

Mr. F. D. Schlesinger, Director
Metropolitan Wastewater Department
City of San Diego
600 B Street, Suite 500
San Diego, CA 92101

Dear Mr. Schlesinger:

APPROVAL TO AWARD (ATA) -POINT LOMA WASTEWATER TREATMENT PLANT-
MAINTENANCE BUILDING EXPANSION, CITY OF SAN DIEGO, STATE REVOLVING
FUND (SRF) LOAN PROJECT NO. C-06-4690-110 .

We have reviewed the ATA request package submitted with the SRF ATA Form 555-1 executed
on June 14, 1999. The Planning and Design Section approves the ATA construction budget
request as follows:

CONTRACTOR	AMOUNT BIDD	APPROVED
Riha Construction Company	\$1,141,798	\$841,008

The Division of Clean Water Programs establishes the SRF ATA budget as follows:

	REQUESTED	APPROVED
A. Construction	\$947,757	\$841,008
B. Allowances	\$216,184	
1. Planning		\$33,723
2. Design		\$55,644
3. Construction		\$81,985
4. Administration		\$7,569
5. Prime Engineering		\$6,724
6. Value Engineering		\$5,000
TOTAL	\$1,163,941	\$1,031,653

Please refer to the enclosed Form No. 259 for the construction eligibility calculations.

California Environmental Protection Agency

SURNAME

4-13-00
070

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Please provide this office with a written response within 30 days of the date of this letter stating your agreement or disagreement with this decision.

Send your response to:

Mr. Fred Johansen
Administration and Certification Section
State Water Resources Control Board
P.O. Box 944212
Sacramento, CA 94244-2120

If you have not contacted Mr. Johansen within 30 days, this letter will serve as our final decision.

DISBURSEMENT SCHEDULE

1. Within thirty 30 days, please submit to Ms. Ame Mathies, at the above address, a preliminary **SRF Disbursement Schedule** (see enclosed format) which shows the estimated monthly amounts to be requested during the construction period. The total should equal the approved SRF ATA budget amount. This is needed to establish a preliminary disbursement schedule for your proposed loan contract.
2. The binding loan commitment takes, approximately, three months to process following your agreement on the **SRF ATA budget**, submittal of a preliminary **SRF Disbursement Schedule** and the completion of any other prerequisites.
3. Please remember that the disbursements for costs incurred prior to the binding loan commitment may be subject to the refinance rules in the SRF Policy.

CONSTRUCTION CONTRACT REQUIREMENTS

1. Mail the following documents to Mr. Al Garbutt.
 - A. One copy of the **executed construction contract**,
 - B. One copy of the form (see enclosed format) entitled **Certification of Bond and Insurance Coverage**, and
 - C. One copy of the **Notice to Proceed**.
2. Recipients of SRF loan assistance are required to report MBE/WBE utilization to the Division. **Form MBE/WBE UR334** and the associated **instructions for completing the UR 334** are enclosed.

Mr. F. D. Schlesinger

- 3 -

If you have any questions, please contact Mr. Ken Gonzales at (916) 227-4434.

Sincerely,

ORIGINAL SIGNED BY

Mike Harper, Chief
Administration Unit

Enclosures

bcc: Fred Johansen, DCWP
Dan Little, DCWP
Al Garbutt, DCWP
Ame Mathies, DCWP
Eva Kawada, DCWP

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EXHIBIT C

APPLICABLE EFFLUENT LIMITATIONS

Incorporated by reference are the following supporting documents:

SEE WASTE DISCHARGE REQUIREMENTS ORDER NO. 95-106, AND NPDES PERMIT NO. CA0107409, ADOPTED BY THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION, ON NOVEMBER 9, 1995

APPROVED PLANS AND SPECIFICATIONS

Incorporated by reference are the Plans and Specifications approved by the Division on June 9, 1999, which are the basis for the construction contract to be awarded by the **City of San Diego** to the **Riha Construction Company** following competitive advertising.

EXHIBIT D

PLANS AND SPECIFICATIONS APPROVAL LETTER

See the Plans and Specifications approval letter dated June 9, 1999 for the **Point Loma Maintenance Building Expansion Project**.



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Clean Water Programs

2014 T Street • Sacramento, California 95814 • (916) 227-4400
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120
FAX (916) 227-4349 • Internet Address: <http://www.swrcb.ca.gov>



Gray Davis
Governor

JUN 9 1999

Mr. F. D. Schlesinger, Director
Metropolitan Wastewater Department
City of San Diego
600 B Street, Suite 500
San Diego, CA 92101-4587

Dear Mr. Schlesinger:

FINAL PLANS AND SPECIFICATIONS (P&S) APPROVAL; CITY OF SAN DIEGO (CITY),
POINT LOMA MAINTENANCE BUILDING EXPANSION, STATE REVOLVING FUND
(SRF) LOAN PROJECT NO. C-06-4690-110

The Division of Clean Water Programs (Division) received the City's signed P&S Approval Form and Project Performance Certification Standards for the subject project on June 7, 1999. The Division hereby approves the P&S for Point Loma Maintenance Building Expansion, including Addenda A and B (approved April 1, 1999), with the conditions noted in this letter, in the enclosed approval form, and in the SRF Loan Contract.

Approval of this project does not relieve the City of its responsibility to complete construction and operate the subject project and treatment plant pursuant to the agreed upon performance standards and in accordance with the Regional Water Quality Control Board (RWQCB) NPDES Permit CA0107409 adopted November 9, 1995.

This approval assumes that the City has obtained the necessary approval(s), permit(s), or exemption(s) from other regulatory agencies, especially where construction activities might affect public health or water quality. This approval does not supersede any RWQCB or local health department orders or requirements.

The City must assure that the selected bidder is not excluded (debarred) from participating in federally funded programs. Contractor(s) status regarding debarment can be determined by contacting your project manager, Mr. Dan Little.

It is our understanding that the contractor has been selected and the City is in the process of preparing the Approval to Award (ATA) request for this project. Please submit this form along with the other items listed under Item IV so that the Division can issue ATA for your project.

rec'd 8 Jun 99
SURNAME
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California Environmental Protection Agency

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Mail
6-8-99

Mr. F.D. Schlesinger

-2-

JUN 9 1999

If you have any questions regarding the enclosed P&S Approval form, please call Mr. Little at (916) 227-4575.

Sincerely,

ORIGINAL SIGNED BY

Farouk T. Ismail, Ph.D., P.E.
Chief, Planning & Design Section

cc: Mr. Jim Wageman, Senior Project Manager
Ms. Mojgan Poursadighi, Project Manager
Metropolitan Wastewater Department

Mr. Richard J. Enriquez, Grants and Loans Administrator
Metropolitan Wastewater Department

bcc: Howard Whitver, DCWP
Ken Gonzales, DCWP

Nick Kontos, DCWP
Al Garbutt, DCWP

s:/plan_sec/planning/little/plmntexp.psa/8 JUN 99/DAN/ANNE

**CLEAN WATER PROGRAMS
ADDENDUM APPROVAL FORM**

Project No. SRF Loan No. C-06-4690-110 **Date:** April 1, 1999
Applicant City of San Diego
Address 600 B Street, Suite 500, San Diego, CA 92101-4587
Auth. Rep. Mr. F. D. Schlesinger, Director **Engineer** Ms. Mojgan Poursadighi
Address (same as above) **Address** (same as above)
Phone (619) 533-4200 **Phone** (619) 221-8314
Project Description Point Loma Wastewater Treatment Plant Maintenance Building Expansion

ADDENDA DESCRIPTIONS:

Addendum A, dated February 25, 1999:

1. Deletions and replacements to Contract Documents, Notice Inviting Bids, Bid Forms, and Products, Materials, Equipment and Substitutions.

Addendum B, dated March 17, 1999:

1. Bidder's Questions; and
2. Deletions, revisions, additions, replacements, and additions to the Contents, Bid Forms, Supplementary General Conditions, Measurement and Payment, Aluminum Windows, Aluminum Sun Screen, Exterior Sun Control Screens, Vertical Blinds, and Drawings 51-A-02 and 51-A-19.

ADDENDA APPROVAL AND ELIGIBILITY SUMMARY:

Addendum	SWRCB Approval Date	Est. Eligibility Increase	Est. Eligibility Decrease	Estimated Eligibility Determination
A	April 1, 1999	0%	0%	same as original
B	April 1, 1999	0%	0%	same as original
Totals		0%	0%	same as original

APPROVAL BY STATE

Date 6/7/99	Signature 	Name and Title Daniel J. Little, P.E., Associate Engineer
-----------------------	---------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------

**CLEAN WATER PROGRAMS
PLANS AND SPECIFICATIONS APPROVAL FORM**

Project No.	C-06-4690-110	Date:	April 1, 1999
Applicant	CITY OF SAN DIEGO, METROPOLITAN WASTEWATER DEPARTMENT		
Address	600 B Street, Suite 500, San Diego, CA 92101-4587		
Auth. Rep.	Mr. F. D. Schlesinger, Director	Engineer	Ms. Mojgan Poursadighi
Address	(same as above)	Address	(same as above)
Phone	(619) 533-4200	Phone	(619) 221-8314
Project Description	Point Loma Wastewater Treatment Plant Maintenance Building Expansion		


List the eligible items (identify by bid item and schedule):

The eligibility determinations identified below are based on the review of the final plans and specifications received in this office on March 25 , 1999, the Bid Schedule contained in pages 00300-3 and 00300-4 of Contract Documents, the Pt. Loma Treatment Plant 90% Design Development Estimate (cost estimate) dated May 5, 1998, the Facilities Plan Approval letter dated March 26, 1999, and the Addenda dated February 25, 1999, and March 17, 1999.

The eligibility determination for the contract bid items, based on the engineers estimate, and as shown in the Bid Schedule on pages 00300-3 and 00300-4 of Addendum B, are as follows:

Bid Item	Description	Estimate	Percent Eligibility	Eligible S
1	General Construction	\$1,088,000	87.11% <i>See Condition No.1</i>	\$947,757
2	Sheeting, Shoring, and Bracing	\$0	87.11% <i>See Condition No.1</i>	\$0
3	Offsite Parking	\$6,000	0% <i>See Condition No. 2</i>	\$0
4	Reglaze Existing Windows and Doors	\$27,000	0% <i>See Condition No. 2</i>	\$0
5	Allowance for Partnering	\$10,000	0% <i>See Condition No. 2</i>	\$0
6	Allowance for Field Orders	\$150,000	0% <i>See Condition No. 3</i>	\$0
7	Site Maintenance Activities	\$5,000	0% <i>See Condition No. 2</i>	\$0
Totals		\$1,286,000		\$947,757

APPROVAL BY STATE

Date 6/7/99	Signature 	Name and Title Daniel J. Little, P.E., Associate Engineer
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(CONTINUATION SHEET)

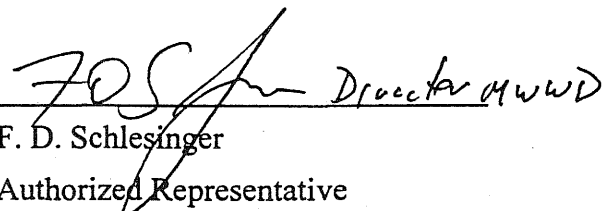
Project No. C-06-4690-110
Applicant CITY OF SAN DIEGO

CONDITIONS OF APPROVAL

Plans and Specifications for your project are approved with the following conditions:

1. Based on eligibility as determined in the cost estimate. A table of the eligibility calculation is attached.
2. Bid Items 3, 4, 5, and 7 are Incidental to the Contract and may be deleted in their entirety. Therefore, they are not eligible as the work described may not need to be performed.
3. Bid Item 6 is pre-priced and a contingency (considered a construction change order) to the contract and is therefore ineligible.
4. The review of the Plans and Specifications (P&S) is for eligibility and administrative purposes, and to assess the likelihood that the project will achieve its intended purpose. The structural, mechanical, and electrical aspects of the P&S are not reviewed in detail.
5. Acceptance of the P&S by the State Water Resources Control Board does not relieve the City and the design engineer of their legal liability for the adequacy of the design.
6. The Final P&S Approval cannot be issued until the loan applicant's authorized representative has signed and returned this form, the attached Addendum Approval Form, and the attached Project Performance Certification Standards, thus indicating agreement. Final P&S Approval will then be issued under a separate letter with the aforementioned items attached.

I agree with the above eligibility decisions.


F. D. Schlesinger

Authorized Representative

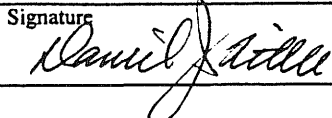
5/27/99
Date

APPROVAL BY STATE

Date

6/7/99

Signature



Name and Title

Daniel J. Little, P.E., Associate Engineer

CLEAN WATER PROGRAMS
PROJECT PERFORMANCE CERTIFICATION STANDARDS

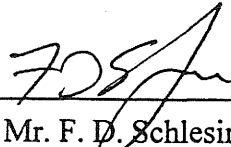
I, F. D. Schlesinger, as the authorized representative for the City of San Diego, hereby agree to the following project performance standards for the Point Loma Wastewater Treatment Plant Maintenance Building Expansion, SRF Loan No. C-06-4690-110

1. All components of the project shall meet the material, workmanship, specification, testing, and performance standards identified in the contract plans and specifications and will be operational at the time of project performance certification.
2. Each component requiring testing under the specifications shall be tested to determine that the performance objectives stated in the specifications can be met under full load conditions.

The City shall include this information in the project performance certification report due one year after initiation of operation. The report shall include a description of the test conditions and the attained performance of each item tested.

3. The existing operation and maintenance tracking system must be updated to include all new mechanical and electrical equipment, spare parts, and a record of preventive and corrective maintenance tasks scheduled and performed.
4. A log of the operation and maintenance of each mechanical component shall be maintained. This log shall include, but not necessarily be limited to testing of piping, electrical, and mechanical systems.
5. If any component of the project does not meet the material, workmanship, or performance standards contained in the construction contract documents, the City or its prime engineer must provide a discussion of probable causes and corrective actions.
6. If necessary, the City will correct performance problems identified by the prime engineer's report at other than State expense.

I agree with the project performance standards identified above.



Mr. F. D. Schlesinger
Authorized Representative

5/27/99

Date

Project No. SRF Loan No. C-06-4690-110

Applicant City of San Diego

**Eligibility of the Point Loma Maintenance Building Expansion based on the
engineers estimate; SRF Project C-06-4690-110**

Division	Summary of Estimate	Estimate	Eligible \$	Eligible %
2	Sitework	89723	89723	100
3	Concrete	3670	3670	100
5	Metals	37361	37361	100
6	Wood & Plastics	16924	16924	100
7	Thermal & Moisture Protection	32625	32625	100
8	Doors & Windows	33698	33698	100
9	Finishes	102591	102591	100
10	Specialties	32123	32123	100
11	Equipment	940	0	0
12	Furnishings	100525	5350	5.32206
14	Conveying Systems	35000	35000	100
15	Mechanical	102473	102473	100
16	Electrical	93441	93441	100
	Subtotal	681094	584979	85.8881
	General Conditions	57893	0	Not Incl.
	Contingency	20433	0	Not Incl.
	Subtotal	759420	584979	
	Bonds	11391	11391	100
	Contractors Fee	53159	53159	100
	Total Estimate	823970	649529	
	Basis for eligibility calculation	745644	649529	87.1098
plmntest.xls				

EXHIBIT E

FACILITIES PLAN APPROVAL LETTER

See the Facilities Plan Approval letters dated March 26, 1999 and April 26, 1999.



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Clean Water Programs

2014 T Street • Sacramento, California 95814 • (916) 227-4400
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120
FAX (916) 227-4349 • Internet Address: <http://www.swrcb.ca.gov>



Gray Davis
Governor

MAR 26 1999

Mr. F. D. Schlesinger, Director
Metropolitan Wastewater Department
600 B Street, Suite 500
San Diego, CA 92101-4587

Dear Mr. Schlesinger:

FACILITIES PLAN APPROVAL, POINT LOMA TREATMENT PLANT MAINTENANCE BUILDING
EXPANSION, CITY OF SAN DIEGO (CITY), STATE REVOLVING FUND (SRF) PROJECT NO. C-06-
4690-110

In accordance with the State Water Resources Control Board's (SWRCB) February 1995, *Policy for
Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities* (Policy), as
amended on June 18, 1998, the Division of Clean Water Programs (Division) herewith approves the facilities
plan for the subject project. Our approval is based on the following determinations:

1. Complete project report documentation including the "Point Loma Wastewater Treatment Plant Master
Plan" dated August 1994, and supplemental information dated November 5, 1998, and January 28, 1999,
has been submitted and it complies with Section VIII. A. of the Policy;
2. The environmental documentation meets all of the environmental review requirements and the Division's
Environmental Services Unit approved the documents on March 17, 1999;
3. A draft revenue program was approved by the Division on September 22, 1997, and
4. The City is a signatory to the State Water Coalition's Memorandum of Understanding Regarding Urban
Water Conservation in California.

PROJECT DESCRIPTION

The proposed project consists of the addition of approximately 4,600 square feet to the second floor of the
existing maintenance building at the Point Loma Wastewater Treatment Plant. The project is described in
Section 5.3 of the August 1994 Point Loma Wastewater Treatment Plant Master Plan beginning on page 5-28.

Because of plant expansion and additional maintenance needs, staff have increased over the 30 years since
the original maintenance building was constructed. Additional space is also required to provide for shop
records and reports and for centralization of the maintenance shop activities.

The Division has made the determination that the items listed below will be eligible for a SRF loan. Where
applicable, eligible capacity will be adjusted at the time of approval to award the construction contract to
account for any changes in the estimated date for initiation of construction.

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DWR 540 REV. 1/96

California Environmental Protection Agency

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MAR 26 1999

Mr. F.D. Schlesinger

- 2 -

1. The following items will be eligible for SRF loans:
 - A. Construction of the proposed expansion to the second floor of the existing Maintenance Building at the Point Loma Wastewater Treatment Plant. The space will include provisions for offices, record keeping, computers, and support facilities;
 - B. Any special equipment necessary to maintain the facilities, including one set of the manufacturer's list of spare parts;
 - C. Demolition required for construction of loan eligible facilities;
 - D. Necessary insurance related to the construction contract; and
 - E. Allowances for planning, design, construction, prime engineering, and administration (see Appendix I of the Policy).
2. The following items are not eligible for loans:
 - A. Construction contingencies;
 - B. Construction change orders and claims;
 - C. Facilities under construction, if any, prior to the issuance of Final Plans and Specifications Approval by the Division;
 - D. Appliances and furnishings; and
 - E. All other items not included in the construction contract except allowances.

The estimated construction cost is \$823,970. The estimated loan eligible construction cost is \$720,283 and is based on the estimated eligibility for construction according to the engineer's estimate plus applicable allowances for engineering and administration from the tables the table in Appendix I of the SRF Policy.

PROJECT MILESTONES

This approval is based on submittals and milestone dates according to the following schedule:

Submit Loan Application	Completed March 3, 1999
Submit Final Plans and Specifications	Completed March 25, 1999
Approve Plans and Specifications	May 21, 1999
Advertise for Bids	Completed February 25, 1999
Open Bids	March 30, 1999
Initiate Construction (NTP)	July 19, 1999
Submit Final Revenue Program	February 21, 2000
Complete Construction	March 20, 2000
Initiate Facilities Operation	March 20, 2000
Performance Certification	March 20, 2001

Special attention to the project milestones schedule is critical. Schedules must be compatible with requirements of any Regional Water Quality Control Board (RWQCB) enforcement actions related to the planned facilities. Approval of a schedule not compatible with RWQCB requirements does not relieve the applicant of its responsibility to achieve compliance with said requirements.



MAR 26 1999

Mr. F.D. Schlesinger

- 3 -

CONDITIONS OF APPROVAL

1. This approval includes only that project described above and does not include any associated projects which may have been referred to in the facility planning documentation submitted for this project. This approval does not guarantee that loan assistance will be awarded for this project.
2. The City and the SWRCB are currently negotiating alternative contract language which may enable the City and the SWRCB to enter into an SRF loan agreement. The Division will not request a preliminary loan commitment until the SWRCB can approve the changes to the SRF loan contract language.
3. This letter constitutes a Final Staff Decision. Please notify me immediately in writing if you agree with this letter as currently written.

If you are **NOT** in agreement, then you must request a Final Division Decision within 30 days from the date of this letter. Your request should be specific on the items of disagreement, and suggest the exact changes with which you would be in agreement. Please send the request to:

Mr. Edward C. Anton, Chief
Division of Clean Water Programs
P.O. Box 944212
Sacramento, CA 94244-2120

Again, we **MUST** reach agreement in writing before your proposed project can be scheduled for SWRCB approval of a preliminary funding commitment.

If you have any questions or comments regarding this letter, please contact Mr. Dan Little of my staff at (916) 227-4575.

Sincerely,

ORIGINAL SIGNED BY

for Howard Whitver
Farouk T. Ismail, Ph.D., P.E.
Chief, Planning & Design Section

cc: Mr. Dat Quach, Area Engineer
San Diego Regional Water
Quality Control Board
9771 Clairemont Mesa Boulevard, Suite A
San Diego, CA 92124-1324

Mr. Richard Enriquez, Loans and Grants Administrator
Mr. Jim Wageman, Project Engineer
Metropolitan Wastewater Department

bcc: Farouk Ismail, DCWP
Howard Whitver, DCWP
Ame Mathies, DCWP
Ron Blair, DCWP

Sandy Houck, DCWP
Nick Kontos, DCWP
Diane Edwards, DCWP
Ilene Smith, DCWP

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California Environmental Protection Agency



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State Water Resources Control Board



Winston H. Hickox
Secretary for
Environmental
Protection

Division of Clean Water Programs
2014 T Street • Sacramento, California 95814 • (916) 227-4400
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Gray Davis
Governor

APR 26 1999

Mr. F. D. Schlesinger, Director
Metropolitan Wastewater Department
600 B Street, Suite 500
San Diego, CA 92101-4587

Dear Mr. Schlesinger:

AMENDED FACILITIES PLAN APPROVAL, POINT LOMA TREATMENT PLANT
MAINTENANCE BUILDING EXPANSION, CITY OF SAN DIEGO (CITY), STATE
REVOLVING FUND (SRF) PROJECT NO. C-06-4690-110

This letter amends the Division of Clean Water Programs (Division) Facility Plan Approval letter dated March 26, 1999. The project description and the estimated costs below supersede the like sections of the previous approval letter.

PROJECT DESCRIPTION

The proposed project consists of the addition of approximately 4,300 square feet to the second floor of the existing maintenance building at the Point Loma Wastewater Treatment Plant. The project is described in Section 5.3 of the August 1994 Point Loma Wastewater Treatment Plant Master Plan beginning on page 5-28, and in the Addendum to the EIR No. 94-0510 dated February 4, 1998. Because of plant expansion and additional maintenance needs, staff have increased since the original maintenance building was constructed in 1964. An expansion, including a partial second story, was constructed in 1990. The proposed additional space is required to provide for shop records and reports and offices, and for centralization of the maintenance shop activities.

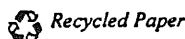
ESTIMATED COST

The estimated construction cost is \$1,286,000 based on the City's Fair Cost Estimate. This does not include engineering and administration. The estimated loan eligible construction cost is \$947,757 based on the 90 Percent Design Development Estimate and the City's Fair Cost Estimate. The estimated eligible total project including applicable allowances for engineering and administration from the table in Appendix I of the SRF Policy is \$1,153,941.

1. All other eligibility decisions and conditions contained in the Division's March 26, 1999, letter which are not in conflict with the above, remain the same.

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California Environmental Protection Agency



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4-26-99

APR 26 1999

2. This letter constitutes a Final Staff Decision. Please notify me immediately in writing if you agree with this letter as currently written, and the Facility Plan Approval Letter.

If you are **NOT** in agreement with both, then you must request a Final Division Decision within 30 days from the date of this letter. Your request should be specific on the items of disagreement, and suggest the exact changes with which you would be in agreement. Please send the request to:

Mr. Edward C. Anton, Chief
Division of Clean Water Programs
P.O. Box 944212
Sacramento, CA 94244-2120

Again, we **MUST** reach agreement in writing before your proposed project can be scheduled for SWRCB approval of a preliminary funding commitment.

If you have any questions or comments regarding this letter, please contact Mr. Dan Little of my staff at (916) 227-4575.

Sincerely,

ORIGINAL SIGNED BY

Farouk T. Ismail, Ph.D., P.E.
Chief, Planning & Design Section

cc: Mr. Dat Quach, Area Engineer,
San Diego Regional Water
Quality Control Board
9771 Clairemont Mesa Boulevard, Suite A
San Diego, CA 92124-1324

Mr. Richard Enriquez, Loans and Grants Administrator
Ms. Mojgan Poursadighi, Project Engineer
Metropolitan Wastewater Department

bcc:	Farouk Ismail, DCWP	Sandy Houck, DCWP
	Howard Whitver, DCWP	Nick Kontos, DCWP
	Ame Mathies, DCWP	Diane Edwards, DCWP
	Ron Blair, DCWP	Ilene Smith, DCWP

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EXHIBIT F

SRF LOCAL MATCH LOAN REPAYMENT SCHEDULE

See the attached Preliminary Local Match loan Repayment Schedule dated December 14, 2000. The actual Repayment Schedule will be forwarded to the Agency after all disbursements have been issued.

EXHIBIT "F"
STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
STATE REVOLVING FUND LOCAL MATCH LOAN PRELIMINARY REPAYMENT SCHEDULE

DATE: 14-Dec-00

Recipient : CITY OF SAN DIEGO
Loan No. : C-06-4690-110
Contract No.: 8-841-550-0
Repayment provision: One year after completion of construction
Construction completion date: February 28, 2001 (estimated)
Capitalization Grant Funding: Repayment

LOAN AMOUNT: \$1,031,653
-Federal Share \$859,707 83.333%
-Local Share \$171,946 16.667%
INTEREST RATE :
-Original 0.0%

Date	Disbursement/ Repayment	No	Total Eligible	Federal Disbursement	Local/State Match	Period Interest	Repayment	Interest	Principal	BALANCE	Comments
31-Jan-01	Disbursement*	1	\$841,008	\$700,837	\$140,171	\$0.00					At least the local/state match amount is to be paid to contractor prior to submitting each loan disbursement request.
28-Feb-01	Disbursement*	2	190,645	\$158,870	31,775	0.00					
28-Feb-02	Principal Balance Due \$1,031,653.00										Total Local/State Match recipient contribution: \$171,946
28-Feb-02	Repayment*	1					\$51,582.65	\$0.00	\$51,582.65	980,070.35	
28-Feb-03	Repayment*	2					51,582.65	0.00	51,582.65	928,487.70	
28-Feb-04	Repayment*	3					51,582.65	0.00	51,582.65	876,905.05	
28-Feb-05	Repayment*	4					51,582.65	0.00	51,582.65	825,322.40	
28-Feb-06	Repayment*	5					51,582.65	0.00	51,582.65	773,739.75	
28-Feb-07	Repayment*	6					51,582.65	0.00	51,582.65	722,157.10	
28-Feb-08	Repayment*	7					51,582.65	0.00	51,582.65	670,574.45	
28-Feb-09	Repayment*	8					51,582.65	0.00	51,582.65	618,991.80	
28-Feb-10	Repayment*	9					51,582.65	0.00	51,582.65	567,409.15	
28-Feb-11	Repayment*	10					51,582.65	0.00	51,582.65	515,826.50	
28-Feb-12	Repayment*	11					51,582.65	0.00	51,582.65	464,243.85	
28-Feb-13	Repayment*	12					51,582.65	0.00	51,582.65	412,661.20	
28-Feb-14	Repayment*	13					51,582.65	0.00	51,582.65	361,078.55	
28-Feb-15	Repayment*	14					51,582.65	0.00	51,582.65	309,495.90	
28-Feb-16	Repayment*	15					51,582.65	0.00	51,582.65	257,913.25	
28-Feb-17	Repayment*	16					51,582.65	0.00	51,582.65	206,330.60	
28-Feb-18	Repayment*	17					51,582.65	0.00	51,582.65	154,747.95	
28-Feb-19	Repayment*	18					51,582.65	0.00	51,582.65	103,165.30	
28-Feb-20	Repayment*	19					51,582.65	0.00	51,582.65	51,582.65	
28-Feb-21	Repayment*	20					51,582.65	0.00	51,582.65	0.00	
			\$1,031,653	\$859,707	\$171,946		\$1,031,653.00	\$0.00	\$1,031,653.00		

* Projected disbursements and repayments are subject to recalculation based on actual disbursements.

EXHIBIT G

LOCAL MATCH LOAN CONTRACT STANDARD CONDITIONS

ARTICLE 1. DEFINITIONS.

- (A) "Allowance" means an amount based on a percentage of the accepted bid for an eligible project to help defray the planning, design, and construction engineering and administration costs of the Project.
- (B) "Authorized Representative" means the Mayor of a City, the Chairperson of the County Board of Supervisors, the Chairperson of the Board of Directors of the Agency, or another duly appointed representative. For all authorized representatives, a certified original copy of the authorizing resolution that designates the authorized representative, by title, must accompany any contract, the first disbursement request, and any other documents or requests required or allowed under this contract.
- (C) "Completion of construction" means the date, as determined by the Division after consultation with the Agency, that the work of building and erection of the Project is substantially complete.
- (D) "Dedicated source of revenue" means "Net System Revenues".
- (E) "Force Account" means the use of the Agency's own employees or equipment for construction of the Project.
- (F) "Division" means the Division of Clean Water Programs of the State Water Resources Control Board, or any other segment of the SWRCB authorized to administer the State Revolving Fund.
- (G) "Initiation of construction" means the date that notice to proceed with work is issued for the Project, or, if notice to proceed is not required, the date of commencement of building and erection of the Project.
- (H) "Official Representatives"
 - (1) The SWRCB Local Match loan Coordinator shall be the Division Chief of the Division of Clean Water Programs.
 - (2) The SWRCB Local Match loan Coordinator shall be the SWRCB's representative for administration of the contract and shall have authority to make determinations and findings with respect to any controversy arising under or in connection with interpretation of the contract.
 - (3) The Agency's Authorized Representative shall be **Michael Uberuaga, City Manager**, or his **designee**, who shall administer the contract and who shall have full authority to act on behalf of the Agency, including authority to execute disbursement requests. All communications given to the Agency representative shall be as binding as if given to the Agency.
 - (4) Either party may change its Official Representative upon written notice to the other party.

- (I) "Project completion" means the date, as determined by the Division after consultation with the Agency, that operation of the Project is initiated or is capable of being initiated, whichever comes first.
- (J) "Revenue Program" means a dedicated source of revenue adopted by the Agency which provides for recovery of appropriate capital costs of the Project, generates adequate income to reasonably assure repayment of Local Match loan funds under this contract, generates adequate income to provide for reasonable operation and maintenance of the Project, and provides adequate income for reasonable future expansion and improvement of the Project.

ARTICLE 2. COMPLIANCE WITH LAW, REGULATIONS, ETC.

- (A) The Agency agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements. Without limitation of the foregoing, the Agency agrees that, to the extent applicable, the Agency will:
 - (1) Comply with, the provisions of the adopted environmental mitigation plan for the term of the Local Match loan contract;
 - (2) Comply with, the SWRCB's "Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities", August 18, 1988 (amended September 20, 1990, January 21, 1993, February, 1995, January 18, 1996 and June 18, 1998); and
 - (3) Comply with, and require its contractors and subcontractors on the Project to comply with federal and state minority and women business enterprise (MBE/WBE) requirements.

ARTICLE 3. AWARD OF CONSTRUCTION CONTRACTS; NOTIFICATION OF AWARD AND INITIATION OF CONSTRUCTION.

- (A) The Agency agrees to award the prime construction contract within 180 days (six months) after issuance of the Local Match loan contract. An extension may be granted by the Division.
- (B) The Agency agrees to promptly notify the Division in writing both of the awards of the prime construction contract for the Project and of initiation of construction of the Project. The Agency shall include with the notice of initiation of construction a statement as to the anticipated date of completion of construction of the Project.

ARTICLE 4. CONSTRUCTION ACTIVITIES; NOTIFICATIONS; PROTECTION OF ARCHEOLOGICAL AND HISTORICAL RESOURCES.

- (A) The Agency agrees to promptly notify the Division in writing of:
 - (1) Any substantial change in scope of the Project. The Agency agrees that no substantial change in the scope of the Project will be undertaken until written notice of the proposed change has been provided to the Division and the Division has given written approval for such change;

- (2) Cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of 30 days or more;
- (3) Any circumstance, combination of circumstances, or condition, which is expected to or does delay completion of construction for a period of 90 days or more beyond the estimated date of completion of construction previously provided to the Division;
- (4) Discovery of any potential archeological or historical resource. Should a potential archeological or historical resource be discovered during construction of the Project, the Agency agrees that all work in the area of the find will cease until a qualified archeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the Division has determined what actions should be taken to protect and preserve the resource. The Agency agrees to implement appropriate actions as directed by the Division; and
- (5) Completion of construction of the Project.

ARTICLE 5. PROJECT ACCESS.

- (A) The Agency agrees to ensure that the SWRCB, or any authorized representative thereof, will have suitable access to the Project site at all reasonable times during Project construction and thereafter for the useful life of the Project.

ARTICLE 6. MBE/WBE REPORTING.

- (A) The Agency agrees to report MBE/WBE utilization to the Division on the MBE/WBE Utilization Report, SWRCB Form MBE/WBE UR334. Reports must be submitted to the Division within ten (10) calendar days following the end of each fiscal year quarter until such time as the "Notice of Completion" is issued.

ARTICLE 7. PROJECT COMPLETION; INITIATION OF OPERATIONS.

- (A) Upon completion of construction of the Project, the Agency agrees to expeditiously initiate Project operations. At the time of completion of construction, the Division, after consultation with the Agency, will establish a reasonable estimated Project completion date, and the Agency agrees to make all reasonable efforts to meet the date so established. Such date shall be binding upon the Agency unless modified in writing by the Division upon a showing of good cause by the Agency. Extension of the Project completion date by the Division shall not be unreasonably withheld.

ARTICLE 8. REVENUE PROGRAM.

- (A) The Agency agrees to prepare and provide an acceptable final Revenue Program to the Division at the time of 90 percent disbursement of Local Match loan funds. Further Local Match loan disbursements may be withheld until an acceptable final Revenue Program is submitted. The Agency further agrees to periodically review and modify the Revenue Program as necessary to assure reasonable adequacy of the Revenue Program. The final Revenue Program and all modifications thereof shall be consistent with applicable guidelines and shall be to the reasonable satisfaction of the Division. The Division may review the Agency's records to assure compliance with the approved Revenue Program at any time during the useful life of the Project.

- (B) The Agency agrees to establish and maintain a Wastewater Capital Reserve Fund (WCRF) for expansion, major repair, or replacement of the wastewater facilities and to maintain the WCRF for the term of the Local Match loan contract. The WCRF shall be maintained in compliance with the *"Policy For Implementing The State Revolving Fund For Construction Of Wastewater Treatment Facilities"* in effect at the time the Local Match loan contract is signed by the Authorized Representative of the Agency. The Agency agrees to submit a report on WCRF activities and status five (5) years after the date of the final revenue program approval by the Division. Updated WCRF reports will be submitted every five-(5) years thereafter until the Local Match loan has been fully discharged. Thereafter, the WCRF will no longer be subject to the requirements of this contract or the above referenced policy. Certification by legal counsel of unused bonding capability for the wastewater enterprise may be used to offset required cash deposits to the WCRF.

ARTICLE 9. CONTINUOUS USE OF PROJECT; LEASE OR DISPOSAL OF PROJECT.

- (A) The Agency agrees that it will not abandon, substantially discontinue use of, lease, or dispose of the Project or any significant part or portion thereof during the useful life of the Project without prior written approval of the Division. Such approval may be conditioned as determined to be appropriate by the Division, including a condition requiring repayment of all or any portion of all remaining Local Match loan funds covered by this contract together with accrued interest, and any penalty assessments which may be due.

ARTICLE 10. REPORTS.

- (A) The Agency agrees to expeditiously provide, during construction of the Project and thereafter during the useful life of the Project, such reports, data, and information as may be reasonably required by the Division, including but not limited to material necessary or appropriate for evaluation of the State Revolving Fund Local Match loan Program or to fulfill any reporting requirements of the federal government.

ARTICLE 11. LOCAL MATCH LOAN DISBURSEMENTS; AVAILABILITY OF FUNDS.

- (A) Except as may be otherwise provided in this contract, Local Match loan amounts will be disbursed as follows:
- (1) Upon execution and return of this Local Match loan contract, the Agency may request immediate disbursement of any planning and design allowance included in the Local Match loan amount through submission of Disbursement Request Form 261, or any amendment thereto, duly completed and executed. The planning and design allowance amount due up to the allowance, will be disbursed promptly upon request after approval of this contract by the State Department of General Services;
 - (2) The Agency agrees to submit certification of incurred allowance costs with the allowance pay requests to the Division. The Division will then authorize the disbursement of the federal share of the eligible payment amount;
 - (3) Additional Local Match loan funds will be promptly disbursed to the Agency for disbursement costs incurred by the Agency upon receipt of Disbursement Request Form 261, or any amendment thereto, duly completed and executed. Pursuant to 40 CFR 35.3160(b), Local

Match loan funds for refinanced project costs (costs other than allowances incurred prior to the execution of the Local Match loan contract) or purchase of local debt must be disbursed at a rate no greater than equal amounts spread over the minimum number of quarters required by 40 CFR 35.3155(c).

Disbursement shall not be made more frequently than one a month. The Agency agrees that it will not request disbursement for any Project cost until such cost has been incurred and is due and payable to Project contractors, or before payment of the State Match portion of the eligible invoice amount has been paid to the Project contractors prior to submitting the progress payment request to the Division. Certification of payments must be submitted to the Division with each payment request. The Division will then authorize the disbursement of the federal share of the eligible payment amount;

- (4) Notwithstanding any other provision of this contract, no disbursement shall be required at any time or in any manner which is in violation of or in conflict with federal or state laws, rules, or regulations.
- (B) The SWRCB's obligation to disburse any sum to the Agency under any provision of this contract is contingent upon the availability of sufficient funds to permit the disbursements provided for herein. In the event that sufficient funds do not become available for reasons beyond the reasonable control of the SWRCB, such as failure of the federal or state government to appropriate funds necessary for disbursement of Local Match loan amounts, the SWRCB shall not be obligated to make any disbursements to the Agency under this contract. This provision shall be construed as a condition precedent to the obligation of the SWRCB to any disbursements under this contract. Nothing in this contract shall be construed to provide the Agency with a right of priority for disbursement over any other agency. If any disbursements, which are otherwise due to the Agency under this contract, are deferred because of unavailability of sufficient funds, such disbursements will promptly be made to the Agency when sufficient funds do become available.

ARTICLE 12. WITHHOLDING OF LOCAL MATCH LOAN DISBURSEMENTS.

- (A) The Division may withhold all or any portion of the Local Match loan funds provided for by this contract in the event that:
 - (1) The Agency has materially violated, or threatens to materially violate, any term, provision, condition, or commitment of this contract;
 - (2) The Agency fails to maintain reasonable progress toward completion of the Project; or
 - (3) An acceptable Revenue Program is not submitted at the time of 90 percent disbursement of Local Match loan funds.

ARTICLE 13. RECORDS.

- (A) Without limitation of the requirement to maintain Project accounts in accordance with generally accepted government accounting standards, the Agency agrees to:
 - (1) Establish an official file for the Project, which shall adequately document all significant actions relative to the Project;

- (2) Establish separate accounts which will adequately and accurately depict all amounts received and expended on the Project, including all Local Match loan funds received under this contract;
 - (3) Establish separate accounts which will adequately depict all income received which is attributable to the Project, specifically including any income attributable to Local Match loan funds disbursed under this contract;
 - (4) Establish an accounting system, which will accurately depict final total costs of the Project, including both direct and indirect costs;
 - (5) Establish a Local State Match account prior to issuance of the Local Match loan contract from which the state match portion of the project is being paid. The Agency must deposit sufficient funds in the account as necessary to make payments to the contractor.
 - (6) Establish such accounts and maintain such records as may be necessary for the state to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations; and
 - (7) If Force Account is used by the Agency for any phase of the Project, other than for planning, design and construction engineering, and administration provided for by allowance, accounts will be established which reasonably document all employee hours charged to the Project and the associated tasks performed by each employee. Indirect force account costs may be paid with prior written approval by the Division of the Agency's indirect cost proposal.
- (B) The Agency agrees to require Project contractors and subcontractors to maintain books, records, and other material relative to the Project in accordance with generally accepted accounting standards, and to require such contractors and subcontractors to retain such books, records, and other material for a minimum of three years after Project completion. The Agency further agrees to require that such books, records, and other material shall be subject at all reasonable times to inspection, copying, and audit by the SWRCB and by the U.S. Environmental Protection Agency, or any authorized representatives thereof.
- (C) The Agency agrees to retain its Project records for a minimum of three years after Project completion, and for such longer period as may be required for the state to fulfill federal reporting requirements under federal tax statutes and regulations. All Agency records relative to the Project shall be subject at all reasonable times to inspection, copying and audit by the SWRCB and the U.S. Environmental Protection Agency, or any authorized representatives thereof.
- (D) The Agency agrees to furnish the SWRCB with copies of cancelled checks paid to its contractor(s), at least each quarter documenting payment of the state match amount.

ARTICLE 14. FINAL PROJECT REPORTS; AUDIT

- (A) Within 90 days after Project completion, the Agency agrees to submit to the Division a final Project summary report which briefly describes the Project as completed, its features, estimated capacity, and apparent treatment capability. The report shall note any unusual operational problems that have been

encountered and shall indicate whether the Agency expects to be able to certify that the Project meets applicable design specifications and effluent limitations one year after Project completion.

- (B) Within 120 days after Project completion, the Agency agrees to provide to the Division a final cost summary report on the Project. The summary shall include at a minimum, a statement of:
- (1) Total Project costs;
 - (2) Total Project costs which are eligible for Local Match loan funding under the SWRCB's Local Match loan program and this contract;
 - (3) The total amount of Local Match loan funds received;
 - (4) The amount of interest earned, if any, on Local Match loan funds before disbursement on account of incurred Project costs. If no interest has been earned, this fact shall be expressly stated.
- (C) The report shall be accompanied by such other financial information as may be reasonably required by the Division to verify Agency entitlement to Local Match loan funds, to assure program integrity of the State Revolving Fund Local Match loan Program, and to comply with any federal requirements. A duly authorized representative of the Agency shall certify the report as correct.
- (D) The Division, at its option, may call for an audit of financial information relative to the Project, where the Division determines that an audit is desirable to assure program integrity or where such an audit becomes necessary because of federal requirements. Where such an audit is called for, the audit shall be performed by a Certified Public Accountant independent of the Agency and at the cost of the Agency. The audit shall be in the form required by the Division.

ARTICLE 15. REPAYMENT; PENALTIES; AGENCY OBLIGATION.

- (A) The Local Match loan amount shall be repaid in full not later than 20 years after the completion of construction. Repayment shall be made in 20 annual installments, with the first repayment due one year after the completion of construction, with annual repayment installments due thereafter until the Local Match loan amount has been paid in full.

The repayment amount is based on a standard fully amortized Local Match loan with equal annual repayments. The remaining balance is the previous balance, plus the disbursements, less the repayment. Repayment calculations will be made beginning one year after completion of construction and continuing each year thereafter for 20 years. Exhibit F is a preliminary repayment schedule based on the provisions of this article and an estimated disbursement schedule. The actual repayments will be based on actual disbursements.

- (B) Upon completion of construction of the Project and submission of necessary reports, the Division will prepare an appropriate Local Match loan Repayment Schedule and supply the same to the Agency. The Local Match loan Repayment Schedule may be amended as necessary to accurately reflect amounts due under this contract. Any amended Local Match loan Repayment Schedule that is necessary will be prepared by the Division and furnished to the Agency.

- (C) The Agency agrees to make each Local Match loan repayment on or before the due date therefore, a ten-(10) day grace period will be allowed. A penalty in the amount of one-tenth of one percent (0.1%) per day of the amount due will be assessed for late repayment. If the repayment is not received by the end of the grace period, the penalty will be assessed from the repayment due date. For purposes of penalty assessment, repayment will be deemed to have been made if repayment is deposited in the U.S. Mail within the grace period with postage prepaid and properly addressed. Any penalties assessed will not be added to the Local Match loan balance, but will be treated as a separate account and obligation of the Agency.
- (D) The Agency as a whole is obligated to make all payments required by this contract to the SWRCB, notwithstanding any individual default by its constituents or others in the payment to the Agency of taxes, assessments, tolls, or other charges levied by the Agency. The Agency shall provide for the punctual payment to the SWRCB of all amounts which become due under this contract and which are received from constituents or others in the payment to the Agency. In the event of failure, neglect or refusal of any officer of the Agency to levy or cause to be levied any tax or assessment necessary to provide payment by the Agency under this contract, to enforce or to collect such tax or assessment, or to pay over to the SWRCB any money collected on the tax or assessment necessary to satisfy any amount due under this contract, the SWRCB may take such action in a court of competent jurisdiction as it deems necessary to compel the performance of all duties relating to the levying and collection of the taxes or assessments and the payment of the money collected therefrom to the SWRCB. Action taken pursuant hereto shall not deprive the SWRCB of, or limit the application of, any other remedy provided by law or by this contract.

ARTICLE 16. TERMINATION; IMMEDIATE REPAYMENT.

- (A) This contract may be terminated by written notice during construction of the Project, or thereafter at any time prior to complete repayment by the Agency, at the option of the SWRCB, upon violation by the Agency of any material provision of this Local Match loan contract after such violation has been called to the attention of the Agency and after failure of the Agency to bring itself into compliance with the provisions of this contract within a reasonable time as established by the Division.
- (B) In the event of such termination, the Agency agrees, upon demand, to immediately repay to the SWRCB an amount equal to the current balance due on the Local Match loan, and all penalty assessments due.

ARTICLE 17. DAMAGES FOR BREACH AFFECTING TAX EXEMPT STATUS.

- (A) In the event that any breach of any of the provisions of this contract by the Agency shall result in the loss of tax exempt status for any state bonds, or if such breach shall result in an obligation on the part of the state to reimburse the federal government by reason of any arbitrage profits, the Agency shall immediately reimburse the state in an amount equal to any damages paid by or loss incurred by the state due to such breach.

ARTICLE 18. DISPUTES.

- (A) Any dispute arising under this contract which is not otherwise disposed of by agreement shall be decided by the Division Chief, or his authorized representative. The decision shall be reduced to writing and a copy thereof furnished to the Agency and to the SWRCB's Executive Director. The decision of the Division shall be final and conclusive unless, within thirty (30) calendar days after

mailing of the Division decision to the Agency, the Agency mails or otherwise furnishes a written appeal of the decision to the SWRCB's Executive Director. The decision of the SWRCB's Executive Director shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal under this clause, the Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Agency shall continue to fulfill and comply with all the terms, provisions, commitments, and requirements of this Local Match loan contract.

- (B) This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the SWRCB, or any official or representative thereof, or any question of law.

ARTICLE 19. SWRCB ACTION; COSTS AND ATTORNEY FEES.

- (A) The Agency agrees that any remedy provided in this contract is in addition to and not in derogation of any other legal or equitable remedy available to the SWRCB as a result of breach of this contract by the Agency, whether such breach occurs before or after completion of the Project, and exercise of any remedy provided by this contract by the SWRCB shall not preclude the SWRCB from pursuing any legal remedy or right which would otherwise be available. In the event of litigation between the parties hereto arising from this contract, it is agreed that the prevailing party shall be entitled to such reasonable costs and/or attorney fees as may be ordered by the court entertaining such litigation.

ARTICLE 20. WAIVER.

- (A) The parties hereto may, from time to time, waive any rights under this contract unless such waiver is contrary to law, provided that any such waiver must be in writing and must be signed by the party making such waiver.

ARTICLE 21. DRUG-FREE WORKPLACE CERTIFICATION.

By signing this contract, the Agency hereby certifies under penalty of perjury under state laws, that the agency will comply with the requirements of the Drug-Free Workplace Act of 1990, and will provide a drug-free workplace by taking the following actions:

- (1) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- (2) Establish a Drug-Free Awareness Program to inform employees about:
 - a. the dangers of drug abuse in the workplace;
 - b. the person's Agency's policy of maintaining a drug-free workplace;
 - c. any available counseling, rehabilitation and employee assistance programs, and,
 - d. penalties that may be imposed upon employees for drug abuse violations.
- (3) Provide, that every employee who works on the proposed Local Match loan contract will:
 - a. receive a copy of the Agency's drug-free policy statement; and,

- b. agree to abide by the terms of the Agency's statement as a condition of employment on the Local Match loan contract.

(B) Failure to comply with these requirements may result in suspension of payments under the Local Match loan contract or termination of the Local Match loan contract or both, and the Agency may be ineligible for award of any future contracts if the Division determines that any of the following has occurred:

- (1) The Agency has made false certification; or
- (2) Violated the certification by failing to carry out the requirements as noted above.

ARTICLE 22. PREVAILING WAGES.

(A) The Agency agrees to be bound by all the provisions of State Labor Code Section 1771 regarding prevailing wages. The Agency shall monitor all contracts subject to reimbursement from this Local Match loan contract to assure that the prevailing wage provisions of State Labor Code Section 1771 are being met.

ARTICLE 23. NONDISCRIMINATION CLAUSE.

- (A) During the performance of this agreement, the Agency shall not unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, color, ancestry, religious creed, national origin, physical disability, (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. The Agency shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. The Agency shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. The Agency shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (B) The Agency shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.
- (C) By signing this agreement, the Agency hereby certifies, unless specifically exempted, compliance with Government Code Section 12990(a-f) and California Code of Regulations, Title 2, Division 4, Chapter 5 in matters relating to reporting requirements and the development, implementation and maintenance of a Nondiscrimination Program. The Agency agrees not to unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave.
- (D) By executing this agreement, the signer of this agreement on behalf of Agency swears under penalty of perjury under the laws of the State of California that he/she is duly authorized to legally bind the Agency to the above-described certification.

ARTICLE 24. AMENDMENT.

(A) This contract may be amended at any time by mutual written agreement of the parties.