

County of Monterey

Government Center - Board Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901



Meeting Agenda - Final

Tuesday, February 18, 2025

10:30 AM

Join via Zoom at <https://montereycty.zoom.us/j/224397747> - or in person at the address listed above

Pajaro County Sanitation District

Chair Director Chris Lopez - District 3

Vice Chair Director Wendy Root Askew - District 4

Director Luis A. Alejo - District 1

Director Glenn Church - District 2

Director Kate Daniels - District 5

Participation in meetings

While the Board chambers remain open, members of the public may participate in Board meetings in 2 ways:

1. You may attend the meeting in person; or,
2. You may observe the live stream of the Board of Supervisors meetings at <https://monterey.legistar.com/Calendar.aspx>, <http://www.mgtvonline.com/>, www.youtube.com/c/MontereyCountyTV or <https://www.facebook.com/MontereyCoInfo/>

If you choose not to attend the Board of Supervisors meeting but desire to make general public comment, or comment on a specific item on the agenda, you may do so in 2 ways:

a. submit your comment via email by 5:00 p.m. on the Monday prior to the Board meeting. Please submit your comment to the Clerk of the Board at cob@co.monterey.ca.us. In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Your comment will be placed into the record at the Board meeting.

b. you may participate through ZOOM. For ZOOM participation please join by computer audio at: <https://montereycty.zoom.us/j/224397747>

OR to participate by phone call any of these numbers below:

- +1 669 900 6833 US (San Jose)
- +1 346 248 7799 US (Houston)
- +1 312 626 6799 US (Chicago)
- +1 929 205 6099 US (New York)
- +1 253 215 8782 US
- +1 301 715 8592 US

Enter this Meeting ID number: 224397747 when prompted. Please note there is no Participant Code, you will just hit # again after the recording prompts you.

You will be placed in the meeting as an attendee; when you are ready to make a public comment if joined by computer audio please Raise your Hand; and by phone please push *9 on your keypad.

Participación en reuniones

Mientras las cámaras de la Junta permanezcan abiertas, los miembros del público pueden participar en las reuniones de la Junta de 2 maneras:

1. Podrá asistir personalmente a la reunión; o,
2. Puede observar la transmisión en vivo de las reuniones de la Junta de Supervisores en <https://monterey.legistar.com/Calendar.aspx>, <http://www.mgtvonline.com/>, www.youtube.com/c/MontereyCountyTV o <https://www.facebook.com/MontereyCoInfo/>

Si elige no asistir a la reunión de la Junta de Supervisores pero desea hacer comentarios del público en general o comentar un tema específico de la agenda, puede hacerlo de 2 maneras:

a. envíe su comentario por correo electrónico antes de las 5:00 p.m. el lunes anterior a la reunión de la Junta. Envíe su comentario al Secretario de la Junta a cob@co.monterey.ca.us. En un esfuerzo por ayudar al secretario a identificar el tema de la agenda relacionado con su comentario público, indique en la línea de asunto el cuerpo de la reunión (es decir, la agenda de la Junta de Supervisores) y el número de artículo (es decir, el artículo n.º 10). Su comentario se colocará en el registro en la reunión de la Junta.

b. puedes participar a través de ZOOM. Para participar en ZOOM, únase por audio de computadora en: <https://montereycty.zoom.us/j/224397747>

O para participar por teléfono llame a cualquiera de estos números a continuación:

- +1 669 900 6833 EE. UU. (San José)
- +1 346 248 7799 EE. UU. (Houston)
- +1 312 626 6799 EE. UU. (Chicago)
- +1 929 205 6099 EE. UU. (Nueva York)
- +1 253 215 8782 EE. UU.
- +1 301 715 8592 EE. UU.

Ingrese este número de ID de reunión: 224397747 cuando se le solicite. Tenga en cuenta que no hay un código de participante, simplemente presione # nuevamente después de que la grabación lo solicite.

Se le colocará en la reunión como asistente; cuando esté listo para hacer un comentario público si se une al audio de la computadora, levante la mano; y por teléfono, presione *9 en su teclado.

NOTE: All agenda titles related to numbered agenda items are live web links. Click on the title to be directed to the corresponding Board Report.

PUBLIC COMMENTS: Members of the public may address comments to the Board concerning each agenda item. The timing of public comment shall be at the discretion of the Chair.

10:30 A.M. - Call to Order

Roll Call

Additions and Corrections by Clerk

The Clerk of the Board will announce agenda corrections and proposed additions, which may be acted on by the Board as provided in Sections 54954.2 of the California Government Code.

General Public Comments

This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board of Supervisors. Board members may respond briefly to the statement made or questions posed. They may ask a question for clarification; make a referral to staff for factual information or request staff to report back to the Board at a future meeting.

Consent Calendar

1. Acting as the Board of Directors of the Pajaro County Sanitation District, adopt a Resolution to:
 - a. Approve acceptance of a Financial Assistance grant from the U.S. Department of Agriculture (USDA) Rural Development Service for funding of restoration and repairs to the Pajaro County Sanitation District (PCSD) Wastewater System; and
 - b. Authorize the Director of Public Works, Facilities and Parks (PWFP), or designee, to execute the Grant Agreement (\$4,075,000) and associated documents and act as agent for the County of Monterey/PCSD in processing all documentation to secure these funds and to satisfy the conditions associated with the grant on behalf of the County of Monterey/PCSD; and
 - c. Add a project for Restoration and Repairs to the Pajaro County Sanitation District (PCSD) Wastewater System to the 5-Year Capital Improvement Program starting in the current Fiscal Year (FY 2024-25)

Attachments: [Board Report](#)
 [Attachment A - Resolution USDA Grant Application](#)
 [Attachment B - Letter of Conditions](#)

Adjournment



County of Monterey

Item No.1

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: PCSD RES 25-001

February 18, 2025

Introduced: 2/5/2025

Current Status: Agenda Ready

Version: 1

Matter Type: PCSD Resolution

Acting as the Board of Directors of the Pajaro County Sanitation District, adopt a Resolution to:

- a. Approve acceptance of a Financial Assistance grant from the U.S. Department of Agriculture (USDA) Rural Development Service for funding of restoration and repairs to the Pajaro County Sanitation District (PCSD) Wastewater System; and
- b. Authorize the Director of Public Works, Facilities and Parks (PWFP), or designee, to execute the Grant Agreement (\$4,075,000) and associated documents and act as agent for the County of Monterey/PCSD in processing all documentation to secure these funds and to satisfy the conditions associated with the grant on behalf of the County of Monterey/PCSD; and
- c. Add a project for Restoration and Repairs to the Pajaro County Sanitation District (PCSD) Wastewater System to the 5-Year Capital Improvement Program starting in the current Fiscal Year (FY 2024-25)

RECOMMENDATION:

Acting as the Board of Directors of the Pajaro County Sanitation District, it is recommended that the Board of Supervisors adopt a Resolution to:

- a. Approve acceptance of a Financial Assistance grant from the U.S. Department of Agriculture (USDA) Rural Development Service for funding of restoration and repairs to the Pajaro County Sanitation District (PCSD) Wastewater System; and
- b. Authorize the Director of Public Works, Facilities and Parks (PWFP), or designee, to execute the Grant Agreement and associated documents and act as agent for the County of Monterey/PCSD in processing all documentation to secure these funds and to satisfy the conditions associated with the grant on behalf of the County of Monterey/PCSD; and
- c. Add a project for Restoration and Repairs to the Pajaro County Sanitation District (PCSD) Wastewater System to the 5-Year Capital Improvement Program starting in the current Fiscal Year (FY 2024-25)

SUMMARY/DISCUSSION

USDA Rural Development Service - 2022 Disaster Water Grants Program

In calendar year 2023, the U.S. Department of Agriculture (USDA) Rural Development Service announced a funding opportunity through their Calendar Year (CY) 2022 Disaster Water Grants Program. The Agency offered grant funding nationwide through the Disaster Relief Supplemental Appropriations Act, 2023. Grant funds were made available to qualified, rural applicants to pay for expenses (restoration, repair, or rebuilding) related to water infrastructure systems damaged by events that occurred during CY 2022 (and which resulted in a Presidential Major Disaster Declaration).

Water infrastructure systems, as defined by the grant, include all water resource infrastructure, including wastewater, drinking water, storm drainage, and solid waste facilities.

Applications were accepted on a continual basis, beginning on August 21, 2023. Projects located in a disadvantaged or distressed community received bonus points in the rankings process. There are no cost sharing or matching requirements associated with this grant.

On November 7, 2023, the Board adopted Resolution No. 23-460 authorizing the Department of Public Works, Facilities and Parks (PWFP) to submit a grant application under this program and directing staff to return to the Board of Supervisors for approval prior to acceptance of any grant award(s). That action authorized submittal of a grant encompassing two projects: (1) Relocate or Replace the Pajaro Force Main (which failed during the March 2023 areawide flooding event); and 2 Internal System Repairs in PCSD needed to maintain compliance with discharge requirements under an operating permit issued by the Regional Water Quality Control Board, including upgrades to the Pajaro Lift Station as well as spot sewer repairs at approximately 25 locations identified as failing, primarily within the Las Lomas area.

The initial grant application was submitted in December 2023; however, in March of 2024, USDA staff requested that the two projects be separated and individually submitted. The rationale for separating revolved around the fact that each project would need a differing amount of up-front environmental work to comply with the National Environmental Protection Act (NEPA) - permitting the “Internal System Repairs” project to proceed at a faster pace. That project was then submitted in April of 2024.

On January 15, 2025, the Director of PWFP received notice that a grant in the amount of \$4,075,000 had been awarded to the County of Monterey/Pajaro County Sanitation District for the second of the two projects submitted (Internal System Repairs), as that work is eligible for a ‘Notice of Exemption’ under NEPA (since all the proposed work is on County owned property or in the public Right-of-Way). The first project (Relocate or Replace the Pajaro Force Main) is still under consideration; however, additional environmental work is necessary before a USDA decision can be rendered on that possible award. If both proposed projects are ultimately determined to be eligible for inclusion, the total amount of funding will be more than \$10 million total.

PAJARO COUNTY SANITATION DISTRICT - Wastewater System Overview

The Pajaro County Sanitation District (PCSD) is a dependent Special District. The PCSD Wastewater System is a County-owned System located within the jurisdictional boundaries of the PCSD in the northern unincorporated area of the County of Monterey. The system includes a wastewater collection system of approximately 20 miles of gravity sewer pipe, 6 pump stations, and 2.4 miles of force sewer main. There are approximately 1,047 sewer connections and 1,768 billing units.

The PCSD Wastewater System is a collection system only and does not provide wastewater treatment. Instead, collected sewage is pumped to the City of Watsonville (City) wastewater treatment plant (plant). Under an agreement with the City, the plant accepts and treats PCSD sewage. The PCSD is charged for its share of the plant’s costs based on its fraction of the total wastewater received by the plant and the quality of the received wastewater.

The work to be completed utilizing the funding from this Grant will be concentrated in the census designated and unincorporated communities of Las Lomas and Pajaro, which have been designated as disadvantaged communities with a service population of about 6,000 persons.

NEXT STEPS - CURRENT GRANT

Develop a Project Implementation Plan in Consultation with USDA

The project work funded by the grant is to be completed and USDA funds fully disbursed within three years of the date of obligation (January 15, 2025). We are in receipt of a ‘Letter of Conditions’ (Attachment B) which is currently under review and discussion with USDA as part of developing an Implementation Plan for the project. The preliminary schedule anticipates that construction will be completed in the Spring of 2027, so it is important to commence work as soon as possible. We have signed a letter of intent to comply with the grant conditions, some of which may necessitate changes from the standard County practices or specifications. We will return to the Board for separate actions on those if/as necessary.

Add the Project to the Capital Improvement Program

To commence work as soon as possible, it is necessary to add the project to the current year Capital Improvement Program and add sufficient appropriations to cover the work anticipated between now and June 30 (during current Fiscal Year). A little over \$200,000 is estimated to be needed to cover those costs.

Continue to Investigate other Grant Possibilities

There are other substantial near- and long- term improvements needed for the PCSD Wastewater System. The costs are significant. Staff and retained consulting engineers are also investigating other possible grant options for further potential investment in the system.

OTHER AGENCY INVOLVEMENT:

The work under this grant may need to be coordinated with other essential partners, including the United States Army Corps of Engineers, Monterey County Water Resources Agency, the Pajaro River Flood Management Agency, and the City of Watsonville. Close coordination and involvement with them will be necessary if the second still pending USDA Grant (Relocate or Replace the Pajaro Force Main) is successful. Intergovernmental Agreements will eventually be required. The design and environmental review work to be completed as part of the work contemplated under that possible second Grant will help inform discussions with all entities.

Due to the short timeline for initiating this work, PWFPP has asked to be permitted to bypass both the Capital Improvement and Budget Committees so that this could be presented to the Board of Supervisors at the February 18, 2025 Board meeting.

FINANCING:

The design phase will begin in the current Fiscal Year (FY) 2024 -25, with construction starting in FY 2025-26. Out of the \$4,075,000 USDA grant, staff plans to spend \$213,000 in FY 2024-25 and the remaining \$3,862,000 in FY 2025-26. PCSD has sufficient appropriations and cash to cover the FY 2024-25 project costs. The \$3,862,000 needed for FY 2025-26 will be included in next year’s budget.

Since the USDA grant is reimbursed after expenses are incurred, the county may need a temporary loan from the General Fund in FY 2025-26 to cover costs until the reimbursement is received. If this happens, staff will return to the Board of Supervisors for approval.

In this fiscal year, PWWP will initially use a portion of the funds for the preliminary design and review work needed to finalize the project parameters. This project is fully funded by the USDA grant, which covers design, right-of way, and construction costs, with no required matching funds from the County.

Additionally, the County's staff time and associated consulting engineering costs necessary to prepare the application were covered by the PCSD budget (approximately \$40,000). However, neither the PCSD nor the County will be required to contribute additional funds for the project moving forward.

BOARD OF SUPERVISORS' STRATEGIC INITIATIVES:

The Project will construct a sustainable, physical infrastructure that improves the quality of life for County residents and visitors. The recommended action supports the following Board of Supervisors' Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Benny J Young, Management Specialist

Reviewed by: Tom Moss, Senior Water Resources Hydrologist

Enrique Saavedra, PE, Chief of Public Works

Lindsay Lerable, Assistant Director of Public Works, Facilities and Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities and Parks

Attachment A - Resolution USDA Grant Application

Attachment B - Letter of Conditions



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In this fiscal year, PWWP will initially use a portion of the funds for the preliminary design and review work needed to finalize the project parameters. This project is fully funded by the USDA grant, which covers design, right-of way, and construction costs, with no required matching funds from the County.

Additionally, the County's staff time and associated consulting engineering costs necessary to prepare the application were covered by the PCSD budget (approximately \$40,000). However, neither the PCSD nor the County will be required to contribute additional funds for the project moving forward.

BOARD OF SUPERVISORS' STRATEGIC INITIATIVES:

The Project will construct a sustainable, physical infrastructure that improves the quality of life for County residents and visitors. The recommended action supports the following Board of Supervisors' Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Benny J Young, Management Specialist

Reviewed by: Tom Moss, Senior Water Resources Hydrologist

Enrique Saavedra, PE, Chief of Public Works

Lindsay Lerable, Assistant Director of Public Works, Facilities and Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities and Parks

Attachment A - Resolution USDA Grant Application

Attachment B - Letter of Conditions

Attachment A

*Before the Board of Supervisors in and for the
County of Monterey, State of California*

Resolution No.: _____

Acting as the Board of Directors of the Pajaro County Sanitation District, adopt a Resolution:

- a. Approve acceptance of a Financial Assistance grant from the U.S. Department of Agriculture (USDA) Rural Development Service for funding of restoration and repairs to the Pajaro County Sanitation District (PCSD) Wastewater System; and
- b. Authorize the Director of Public Works, Facilities and Parks (PWFP), or designee, to execute the Grant Agreement and associated documents and act as agent for the County of Monterey/PCSD in processing all documentation to secure these funds and to satisfy the conditions associated with the grant on behalf of the County of Monterey/PCSD; and
- c. Add a project for Restoration and Repairs to the Pajaro County Sanitation District (PCSD) Wastewater System to the 5-Year Capital Improvement Program starting in the current Fiscal Year (FY 2024-25)

WHEREAS the County of Monterey (County), Pajaro County Sanitation District (PCSD) is the owner and operator of the PCSD Wastewater System, approximately 23 miles northwest of Salinas, California; and

WHEREAS the PCSD Wastewater System consists of a wastewater collection system within the communities of Pajaro, Las Lomas, and Bay Farms; and

WHEREAS the PCSD Wastewater System collects and then transports wastewater to the Watsonville Wastewater Treatment Plant (WWTP) for disposal and treatment (located adjacent to the Pajaro River, approximately 2 miles west of the community of Pajaro); and

WHEREAS the PCSD Wastewater System sustained substantial damages as a result of winter storms which began in late Calendar Year 2022 and continued through the first quarter of 2023; and

WHEREAS the two-mile-long transmission line (force main) which conveys collected wastewater from the PCSD system to the regional WWTP in Watsonville sustained multiple leaks and a wholesale rupture due to the series of storm events which began on December 27, 2022; and

WHEREAS to prevent the release of wastewater and infiltration of groundwater into the wastewater conveyance system, as well as to minimize the potential for future force main breaks, the County of Monterey/PCSD must replace the entire reach of force main; and

WHEREAS there were other internal collection and pumping system damages within the Pajaro CSD Wastewater collection system sustained because of the storms which began in Calendar Year 2022; and

WHEREAS the U.S. Department of Agriculture (USDA) Rural Development Service announced a funding opportunity through their Calendar Year (CY) 2022 Disaster Water Grants Program, which was potentially available to assist the County of Monterey/PCSD with the costs of the needed repairs, including all related design, environmental work, land acquisition, and construction; and

WHEREAS an initial grant application was submitted in December 2023; however, in March 2024, USDA staff requested that the planned work be broken into two separate and individually submitted projects; and

WHEREAS a project with a focus on Internal System Repairs was then submitted in April of 2024; and

WHEREAS on January 15, 2025, the Director of PWWP received notice that a grant in the amount of \$4,075,000 had been awarded to the County of Monterey /Pajaro County Sanitation District for the second of the two projects submitted (Internal System Repairs), and

WHEREAS neither the County of Monterey nor the PCSD have funds available to pursue the needed wastewater system repairs without financial assistance; and the County of Monterey wishes to accept financial assistance from the USDA through their CY 2022 Disaster Water Grants Program to assist with all the costs for needed repairs.

NOW THEREFORE, BE IT RESOLVED THAT, the Board of Supervisors of the County of Monterey hereby authorizes and hereby determines to:

- a. Approve acceptance of a Financial Assistance grant from the U.S. Department of Agriculture (USDA) Rural Development Service for funding of restoration and repairs to the Pajaro County Sanitation District (PCSD) Wastewater System; and
- b. Authorize the Director of Public Works, Facilities and Parks (PWWP), or designee, to execute the Grant Agreement (\$4,075,000) and associated documents and act as agent for the County of Monterey/PCSD in processing all documentation to secure these funds and to satisfy the conditions associated with the grant on behalf of the County of Monterey/PCSD; and
- c. Add a project for Restoration and Repairs to the Pajaro County Sanitation District (PCSD) Wastewater System to the 5-Year Capital Improvement Program starting in the current Fiscal Year (FY 2024-25); and
- d. Authorize the Director of Public Works, Facilities and Parks (PWWP), or designee, to represent the County of Monterey/PCSD in carrying out the County’s/PCSD’s responsibilities under the financial assistance agreement, including certifying disbursement requests on behalf of the County/PCSD and compliance with applicable state and federal laws, and
- e. Authorize and direct the Director of Public Works, Facilities, and Parks to submit this Resolution and any corresponding or necessary supporting materials to the USDA.

PASSED AND ADOPTED on this 18th day of February 2025 by roll call vote:

AYES:
NOES:
ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original resolution of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book ___, for the

meeting on February 18, 2025.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
, Deputy

Attachment B



Rural Development

January 8, 2025

Sent by email Only

Salinas Field Office

Monterey County
Pajaro County Sanitation District
Attn: Randell Ishii
1441 Schilling Place
Salinas, CA 93901

744-A LaGuardia
Street
Salinas, CA
93905

Voice 831-975-7762
Fax 844-206-7009

SUBJECT: Letter of Conditions

Recipient Name: Monterey County – Pajaro County Sanitation District
Project Name: CY 2022 Disaster Relief – In kind
Water and Waste Disposal Systems for Rural Communities
CFDA NUMBER - 10.760

Agency Grant: \$4,075,000

Dear Randel Ishii:

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA Rural Development (RD), both of which are referred to throughout this letter as the Agency. Any changes in project cost, source of funds, scope of project, or any other significant changes in the project or applicant must be reported to and concurred with by the Agency by written amendment to this letter. This includes any significant changes in the Applicant’s financial condition, operation, organizational structure or executive leadership. Any significant changes made without Agency concurrence shall be cause for discontinuing processing of the application.

This letter does not constitute grant approval, nor does it ensure that funds are or will be available for the project. The funding is being processed on the basis of a grant not to exceed \$4,075,000. The grant will be considered approved on the date Form RD 1940-1, “Request for Obligation of Funds” is signed by the Agency approval official.

The applicant will ensure projects are completed in a timely, efficient, and economical manner. You must meet all conditions set forth under Section III – Requirements Prior to Advertising for Bids within 1 year of this letter.

If you do not meet the conditions of this letter, the Agency reserves the right to withdraw Agency funding.

If you agree to meet the conditions set forth in this letter and desire further consideration be given to your application, please complete and return the following forms within 1 days:

Form RD 1942-46, “Letter of Intent to Meet Conditions”
Form RD 1940-1, “Request for Obligation of Funds”

All parties may access information and regulations referenced in this letter at our website located at:

[Water and Environmental Programs | Rural Development \(usda.gov\)](https://www.usda.gov/water-environmental-programs/rural-development)

The conditions are as follows:

SECTION I - PROJECT SCOPE

1. Project Description – Funds will be used to help Pajaro County Sanitation District in Monterey County recover from the severe winter storms declared in the Presidential Declared Disaster (DR-4863-CA) and address existing wastewater system deficiencies to minimize negative impacts of severe winter storms, including potential failures of the aging lift station and add resiliency to the community sewer collection system.

Facilities will be designed and constructed in accordance with sound engineering practices and must meet the requirements of Federal, State, and local agencies. The proposed facility design must be based on the Preliminary Engineering Report (PER) prepared by Wallace Group, dated April 10, 2024, as concurred with by the Agency.

2. Project Funding – The Agency is offering the following funding for your project:

Agency Grant - \$ 4,075,000

This offer is based upon the following additional funding being obtained.

Applicant Contribution - \$ 0.00

TOTAL PROJECT COST - \$ 4,075,000

Any changes in funding sources following obligation of Agency funds must be reported to the processing official. Prior to grant closing, any increase in non-Agency funding will be applied first as a reduction to Agency funds.

The applicant must certify that they have exhausted all other funding avenues and have no pending funding considerations from any other sources. Further, the applicant must certify that they do not intend to apply anywhere else for funding for this project. If, after obligation of Agency funds, other funding becomes available, the Agency reserves the right to deobligate any and all funding for this project and to re-underwrite. This may result in the offering of a different funding package to for this project.

Prior to advertisement for construction bids, you must provide evidence of applicant contributions and other funding sources. This evidence should include a copy of the commitment

letter. Agency funds will not be used to pre-finance funds committed to the project from other sources.

3. Project Budget – Funding from all sources has been budgeted for the estimated expenditures as follows:

<u>Project Costs:</u>	<u>Total Budgeted:</u>
Project Administration	
Project Management	\$ 71,000
Consultant and Contractor Management	\$ 43,000
Administration and Legal	\$ 43,000
Preliminary Design Report	\$ 127,000
Permitting, Easements, and Environmental	
Permitting	\$0
Easements	\$0
Environmental Documentation	\$0
Engineering	
Field Services (Survey, Geotechnical, Potholing)	\$ 110,000
Engineering	\$ 422,000
Bid Phase	\$ 29,000
Construction	
Construction Management, Inspect, ESDC, Record Drawings	\$ 422,000
Las Lomas Sewer Main Upgrades	\$1,038,000
Pajaro Lift Station Upgrades	\$ 954,000
Contingency	
Las Lomas	\$ 425,000
Pajaro	\$ 391,000
 TOTAL	 \$4,075,000

Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. Obligated grant funds not needed to complete the proposed project will be deobligated. If actual project costs exceed the project cost estimates, an additional contribution by the Owner may be necessary. An “Amended Letter of Conditions” will be issued for any changes to the total project budget.

4. Project Timeline – To ensure that the project proceeds in a timely manner, key processing milestones have been established in accordance with the PER or other Agency approved documentation. **Projects should be completed and Agency funds fully disbursed within three years of obligation.** By agreeing to the terms herein, you agree to comply with the milestones identified below. If, for any reason, one or more of the milestones cannot be met, you must notify the Agency in writing at least 30 days prior to the referenced date. Should your final completion date become more than three years after obligation the written request will follow the procedures outlined in Section VI of this letter, including the submission of not less than 90 days

prior to the benchmark. The correspondence must contain a valid explanation as to why the milestone cannot be met and include a proposed revised project completion schedule. If the Agency agrees to the modification, written confirmation will be provided. The Agency reserves the right to de-obligate grant funds, or take other appropriate action, if the established or amended deadlines are not met.

Milestone	Date
Land and Easement Acquisition	NA
Permits Acquisition Complete	NA
Plans and Specifications, and Design Complete	4/2/2026
Advertisement for Bids	5/28/2026
Award Contract(s)/Initiate Construction	5/28/2026
Substantial Completion	3/4/2027
Final Completion	5/27/2027

SECTION II –Grant Agreement

5. Grant Agreement - The RUS Bulletin 1780-12, “Grant Agreement” will be executed prior to the first disbursement of grant funds.

The grantee understands that any property acquired or improved with Federal grant funds may have use and disposition conditions which apply to the property as provided by 2 CFR part 200 in effect at this time and as may be subsequently modified. The grantee understands that any sale or transfer of property is subject to the interest of the United States Government in the market value in proportion to its participation the project.

SECTION III –REQUIREMENTS PRIOR TO ADVERTISING FOR BIDS

6. (public body) Organization – The Bond Counsel transcripts of proceedings, or similar Agency-approved documentation, must show that your organization is a duly incorporated public body and has continued legal existence. Your organization must have the authority to own, construct, operate, and maintain the proposed facility, as well as for borrowing money, pledging security, and raising revenues.

7. Suspension and Debarment Screening – You will be asked to provide information on the principals of your organization. Agency staff must conduct screening for suspension and debarment of the entity, as well as its principals through the Do Not Pay Portal. A principal is defined as follows:

Principal –

- (a) An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or

(b) A consultant or other person, whether or not employed by the participant or paid with federal funds, who –

- (1) Is in a position to handle federal funds;
- (2) Is in a position to influence or control the use of those funds; or,
- (3) Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR §180.995).

8. Environmental Requirements –

The project, as proposed, has been evaluated to be consistent with the National Environmental Policy Act. Other Federal, State, tribal, and local laws, regulations and/or permits may apply or be required. If the project or any project element deviates from or is modified from the originally approved project, additional environmental review may be required.

This project has applied the Nationwide Programmatic Agreement Among the U.S. Department of Agriculture Rural Development Programs, National Conference of State Historic Preservation Officers, and the Advisory Council on Historic Preservation for Sequencing Section 106 (NPA). This agreement allows the Agency to obligate funds prior to the completion of Section 106 of the National Historic Preservation Act. The Agreement stipulates, among other things, that the Section 106 process must be complete prior to the awarding of funds and prior to construction. Rural Development is in receipt of your signed NPA Awareness Certification form. In the Awareness Certification, you have acknowledged your awareness of these and other requirements and have agreed that you must complete the Section 106 process before the environmental review component of your application can be finalized and before construction. These historic preservation requirements must be met prior to final approval and prior to taking any action that would have an adverse effect on historic properties or hinder completion of the consultation process required under Section 106 of the National Historic Preservation Act (NHPA). Do not initiate any type of ground disturbing activity, enter into construction contracts, initiate construction, rehabilitation, or purchase land or equipment prior to receiving notification from the Agency that these requirements have been met. Taking any of these actions prior to completion of the required reviews could result in loss of program funds.

9. Engineering Services – You have been required to complete an Agreement for Engineering Services, which should consist of the Engineers Joint Contract Documents Committee (EJCDC) documents as indicated in RUS Bulletin 1780-26, “Guidance for the Use of EJCDC Documents on Water and Waste Projects with RUS Financial Assistance,” or other approved form of agreement. The Agency will provide concurrence prior to advertising for bids and must approve any modifications to this agreement.

10. Contract Documents, Final Plans, and Specifications- All development will be completed by contract in accordance with applicable provisions of RUS Instruction 1780, Subpart C – Planning, Designing, Bidding, Contracting, Constructing and Inspections, (copy available upon request), and in compliance with all statutory requirements. You are responsible to share this with your engineer before pre-design.

- a. In preparing final design and providing service to the planned project area, you and your engineer will comply with all zoning and planning requirements of the appropriate governing bodies where service is to be provided.
- b. The Agency will need to concur in the plans and specifications prior to advertising for bids. The Agency may require an updated cost estimate if a significant amount of time has elapsed between the original project cost estimate and advertising for bids.
- c. The use of any procurement method other than competitive sealed bids must be requested in writing and approved by the Agency.
- d. The contract documents must consist of the EJCDC construction contract documents as indicated in RUS Bulletin 1780-26 or other Agency-approved forms of agreement.

11. American Iron and Steel Requirements. Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies the American Iron and Steel (AIS) requirement to obligations made after May 5, 2017:

- (1) No Federal funds made available for this fiscal year for the rural water, wastewater, waste disposal, and solid waste management programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 et seq.) shall be used for a project for the construction, alteration, maintenance, or repair of a public water or wastewater system unless all of the iron and steel products used in the project are produced in the United States.
- (2) The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.
- (3) The requirement shall not apply in any case or category of cases in which the Secretary of Agriculture (in this section referred to as the “Secretary”) or the designee of the Secretary finds that—
 - (a) applying the requirement would be inconsistent with the public interest;
 - (b) iron and steel products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
 - (c) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.
- (4) Owners are ultimately responsible for compliance with AIS requirements (as defined in RUS Bulletin 1780-35).
 - (a) **Sign** loan resolutions, grant agreements and letters of intent to meet conditions which include AIS language, accepting AIS requirements in those documents and in the letter of conditions.
 - (b) **Sign** agreements for engineering services, executed construction contracts and all other appropriate and necessary documents which include AIS language.

Change Orders and Partial Payment Estimates: **Acknowledge** responsibility for compliance with AIS requirements by signing change orders (EJCDC C-941) and partial payment estimates (EJCDC C-620).

- (c) Substantial completion of project: **Obtain** the certification letters from the consulting engineer and **maintain** this documentation for the life of the loan.
- (d) Special Cases
 - i. Where Owner provides their own engineering, the Owner’s responsibilities will include items listed in Section 5 of RUS Bulletin 1780-35.
 - ii. Where Owner performs their own construction, the Owner’s responsibilities will include items listed in Section 6 of RUS Bulletin 1780-35.
 - iii. Where Owner directly procures AIS products, Owner must **utilize** EJCDC Procurement Series standard contract documents following RUS Bulletin 1780-26 Exhibit D and **obtain** manufacturers’ certifications and provide copies to Engineer and Contractor.

12. Legal Services –A legal services agreement is required with your attorney and bond counsel, if applicable, for any legal work needed in connection with this project. The agreement should stipulate an hourly rate for the work, with a “not to exceed” amount for the services, including reimbursable expenses. RUS Bulletin 1780-7, “Legal Services Agreement,” or similar format may be used. The Agency will provide concurrence prior to advertising for bids. Any changes to the fees or services spelled out in the original agreement must be reflected in an amendment to the agreement and have prior Agency concurrence.

13. Property Rights - Prior to advertising for bids, you and your legal counsel must furnish satisfactory evidence that you have adequate continuous and valid control over the lands and rights-of-way needed for the project. Acquisitions of necessary land and rights must be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Such control over the lands and rights will be evidenced by the following:

- a. **Right-of-Way Map** – Your engineer will provide a map clearly showing the location of all lands and rights-of-way needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
- b. **Form RD 442-20, “Right-of-Way Easement”** – This form, or similar format, may be used to obtain any necessary easements for the proposed project.
- c. **Form RD 442-21, “Right-of-Way Certificate”** – You will provide a certification on this form that all right-of-way requirements have been obtained for the proposed project.
- d. **Form RD 442-22, “Opinion of Counsel Relative to Rights-of-Way”** – Your attorney will provide a certification and legal opinion on this form addressing rights-of-way, easements, and title.

The approving official may waive title defects or restrictions, such as utility easements, that do not adversely affect the suitability, successful operation, security value, or transferability of the facility. Any such waivers must be provided by the approving official in writing prior to closing or the start of construction, whichever occurs first.

You are responsible for the acquisition of all property rights necessary for the project and for determining that prices paid are reasonable and fair. The Agency may require an appraisal by an independent appraiser or Agency employee in order to validate the price to be paid.

14. System Policies, Procedures, Contracts, and Agreements – The facility must be operated on a sound business plan which involves adopting policies, procedures, and/or ordinances outlining the conditions of service and use of the proposed system. Mandatory connection policies should be used where enforceable. The policies, procedures, and/or ordinances must contain an effective collection policy for accounts not paid in full within a specified number of days after the date of billing. They should include appropriate late fees, specified timeframes for disconnection of service, and reconnection fees. A draft of these policies, procedures, and/or ordinances must be submitted for Agency review and concurrence, along with the documents below, before closing instructions may be issued unless otherwise stated.

- a. **Conflict of Interest Policy** – Prior to obligation of funds, you must certify in writing that your organization has in place up-to-date written standards of conduct covering conflict of interest. The standards of conduct must include disciplinary actions in the event of a violation by officers, employees, or agents of the borrower. The standards identified herein apply to any parent, affiliate or subsidiary organization of the borrower that is not a state or local government, or Indian Tribe. Policies and accompanying documents shall be furnished to Rural Development upon request.

You must also submit a disclosure of planned or potential transactions related to the use of Federal funds that may constitute or present the appearance of personal or organizational conflict of interest. Disclosure must be in the form of a written letter signed and dated by the applicant's official. A negative disclosure in the same format is required if no conflicts are anticipated.

Sample conflict of interest policies may be found at the National Council of Nonprofits website, <https://www.councilofnonprofits.org/tools-resources/conflict-of-interest>, or in Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy," at <http://www.irs.gov/pub/irs-pdf/i1023.pdf>. Though these examples reference non-profit corporations, the requirement applies to all types of Agency borrowers.

Assistance in developing a conflict of interest policy is available through Agency-contracted technical assistance providers if desired.

- #b. **Contracts for Other Services/Lease Agreement** – Drafts of any contracts or other forms of agreements for other services, including audit, management, operation, and maintenance, or lease agreements covering real property essential to the successful operation of the facility, must be submitted to the Agency for review and concurrence prior to advertising for bids.
- #c. **Other agreements** with governments or other entities regarding joint operation of facilities, granting authority to Agency borrower for providing service within another

entity's service area, etc.– The draft agreement must receive Agency concurrence prior to advertising for bids.

Fully executed copies of any policies, procedures, ordinances, contracts, or agreements above must be submitted prior to closing, with the exception of the conflict of interest policy, which must be in place prior to obligation of funds.

15. Grant Closing Instructions – The Agency will prepare grant closing instructions as soon as the requirements of the previous paragraphs are complete. Closing instructions must be obtained prior to advertising for bids.

16. (for applications processed in accordance with RUS Instruction 1780) System Users – This letter of conditions is based upon your indication at application that there will be at least 965 residential users and 88 non-residential users on the existing system when construction is completed.

Before the Agency can agree to the project being advertised for construction bids, you must certify that the number of users indicated at application are currently using the system or signed up to use the system once it is operational.

If the actual number of existing and/or proposed users that have signed up for service is less than the number indicated at the time of application, you must provide the Agency with a written plan on how you will obtain the necessary revenue to adequately cash flow the expected operation, maintenance, debt service, and reserve requirements of the proposed project (e.g., increase user rates, sign up an adequate number of other users, reduce project scope, etc.). Similar action is required if there is cause to modify the anticipated flows or volumes presented following approval.

(Add following paragraphs when project does not involve mandatory connections)

- a. **Positive Program to Encourage Connections** – You must provide a positive program to encourage connection by all users as soon as service is available. The program will be reviewed by the Agency prior to advertising for bids. A guide for developing your positive program is available from the Agency.
- b. **Service Declination Statement** – Each potential user who is located along planned lines and declines the offered service will be provided an opportunity to sign a “Service Declination Statement.”

17. Construction Account – A separate construction account is not required for project funds. However, the recipient must be able to separately identify, report and account for all Federal funds, including the receipt, obligation and expenditure of funds, in accordance with 2 CFR 200.305. These funds must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage. **If the balances at the financial institution where federal funds will be deposited exceeds the FDIC insurance coverage, the excess amount must be collaterally secured up to 100 percent of the highest amount of funds expected to be deposited in the account at any one time, per the Department of Treasury regulations and requirements.**

18. Proposed Operating Budget – You must establish and/or maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance (O and M), debt service, and reserves. Prior to advertising for bids, you must submit a proposed annual operating budget to the Agency, as well as your proposed rate schedule. The operating budget should be based on a typical year cash flow after completion of the construction phase and should be signed by the appropriate official of your organization. Form RD 442-7, “Operating Budget,” or similar format may be utilized for this purpose. It is expected that O and M expenses will change over each successive year and user rates will need to be adjusted on a regular basis.

Technical assistance is available at no cost to help you evaluate and complete a rate analysis on your system. This assistance is available free to your organization. If you are interested, please contact our office for information.

19. Permits –The owner or responsible party will be required to obtain all applicable permits for the project, prior to advertising for bids. The consulting engineer must submit written evidence that all applicable permits required prior to construction have been obtained with submission to the Agency of the final plans, specifications, and bid documents.

20. Risk and Resilience Assessment/Emergency Response Plan (RRA/ERP) – The Agency requires all financed water and wastewater systems to have a RRA/ERP in place. New water or wastewater systems must provide a certification that an ERP is complete prior to the start of operation, and a certification that an RRA is complete must be submitted within one year of the start of operation. Borrowers with existing systems must provide a certification that an RRA/ERP has been completed prior to advertising for bids. Technical assistance is available in preparing these documents at no cost to you.

Before funds are drawn, you should have in place a cybersecurity plan, a supply chain plan, and a plan to comply with cybersecurity requirements of the National Institute of Standards and Technology and the Cybersecurity and Infrastructure Security Agency. These items should be addressed in the RRA/ERP.

The RRA/ERP documents themselves are not submitted to the Agency. The RRA/ERP must address potential impacts from natural disasters and other emergency events. It should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. The documents should be reviewed and updated every five years at a minimum.

21. Bid Authorization - Once all the conditions outlined in Section III of this letter have been met, the Agency will authorize you to advertise the project for construction bids. Such advertisement must be in accordance with applicable State statutes.

SECTION IV - REQUIREMENTS PRIOR TO START OF CONSTRUCTION

22. Disbursement of Agency Funds - Agency funds will be disbursed electronically into the your construction account as they are needed. SF 3881, “ACH Vendor/Miscellaneous Payment Enrollment Form,” must be completed and submitted to the Agency prior to commencement of construction.

The order of disbursement is as follows: 1) Applicant contribution, 2) other funding sources, and 3) Agency grant funds.

Grant funds are to be deposited in an interest-bearing account (exception provided below) in accordance with 2 CFR Part 200 and interest in excess of \$500 per year remitted to the Agency. The funds should be disbursed by the recipient immediately upon receipt, and there should be little interest accrual on the Federal funds. Recipients shall maintain advances of Federal funds in interest-bearing accounts, unless:

- The recipient receives less than \$120,000 in Federal awards per year.
- The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
- The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
- A foreign government or banking system prohibits or precludes interest-bearing accounts.]

23. Bid Tabulation – Immediately after bid opening, you must provide the Agency with the bid tabulation and your engineer’s evaluation of bids and recommendations for contract awards. If the Agency agrees that the construction bids received are acceptable, adequate funds are available to cover the total project costs, and all the requirements of Section III of this letter have been satisfied, the Agency will authorize you to issue the Notice of Award.

- a. **Cost Overruns** – If bids are higher than expected, or if unexpected construction problems are encountered, you must utilize all options to reduce cost overruns. Negotiations, redesign, use of bidding alternatives, rebidding or other means will be considered prior to commitment of subsequent funding by the Agency. Any requests for subsequent funding to cover cost overruns will be contingent on eligibility, program limits and the availability of funds. Cost overruns exceeding 20 percent of the development cost at time of grant approval or where the scope of the original purpose has changed will compete for funds with all other applications on hand as of that date.
- b. **Excess Funds** - If bids are lower than anticipated at time of obligation, excess funds must be deobligated prior to start of construction except in the cases addressed in this paragraph. In cases where the original Engineering Report for the project included items that were not bid, or were bid as an alternate, the State Office official may modify the project to fully utilize obligated funds for those items. Amendments to the Engineering Report, ER, and Letter of Conditions may be needed for any work not included in the original project scope. In all cases, prior to start of construction, excess funds will be

deobligated, with grant funds being deobligated first. Excess funds do not include contingency funds as described in this letter.

24. Suspension and Debarment Screening – In accordance with 2 CFR Part 180, Subpart C, as a condition of the transaction and the responsibilities to persons at the next lower tier with whom you enter into transactions, you must conduct screening for suspension and debarment of lower tier recipients (e.g., vendors, contractors, etc.). {2 CFR §180.435(b)}.

25. Contract Review – Your attorney will certify that the executed contract documents, including performance and payment bonds, if required, are adequate and that the persons executing these documents have been properly authorized to do so in accordance with 7 CFR 1780.61(b).

Once your attorney has certified that they are acceptable, the contract documents will be submitted to the Agency for concurrence. Construction cannot commence until the Agency has concurred in the construction contracts.

26. Final Rights of Way – Your attorney or title company must furnish a separate final title opinion or Title Insurance Policy on all real property related to the facility, now owned and to be acquired for this project, as of the day of closing or start of construction, whichever occurs first. Form RD 1927-10, “Final Title Opinion” may be used.

If any of the right-of-way forms listed previously in this letter contain exceptions that do not adversely affect the suitability, successful operation, security value, or transferability of the facility, the approving official must provide a written waiver prior to the issuance of the Notice to Proceed.

27. Insurance and Bonding Requirements - Prior to the start of construction or grant closing, whichever occurs first, you must acquire and submit to the Agency proof of the types of insurance and bond coverage for the entity shown below. The use of deductibles may be allowed, providing you have the financial resources to cover potential claims requiring payment of the deductible. The Agency strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible provisions. It is your responsibility and not that of the Agency to assure that adequate insurance and fidelity bond coverage is maintained.

- a. **(If applicable) General Liability Insurance** – Include vehicular coverage.
- b. **(If applicable) Workers’ Compensation** – In accordance with appropriate State laws.
- c. **(If applicable) Guaranty or Fidelity Insurance** – Coverage for all persons who have access to funds, including persons working under a contract or management agreement. Coverage may be provided either for all individual positions or persons, or through “blanket” coverage providing protection for all appropriate employees. Each position is to be insured in an amount equal to the maximum amount of funds expected to be under the control of that position at any one time. The coverage may be increased during construction based on the anticipated monthly advances.

- d. **(If applicable) National Flood Insurance** - If the project involves acquisition or construction in a designated special flood area, the community in which the acquisition or construction is situated must be currently participating in the national flood insurance program. Additionally, if the project involves acquisition or construction in designated special flood or mudslide prone areas, a flood insurance policy must be in place at the time of closing.
- e. **Real Property Insurance** – Fire and extended coverage will normally be maintained on all structures except reservoirs, pipelines and other structures if such structures are not normally insured, and subsurface lift stations except for the value of electrical and pumping equipment. You must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds. Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all facilities identified above.

28. Civil Rights Compliance Review – The Agency will conduct a civil rights compliance review of the borrower prior to grant closing or start of construction, whichever occurs first, in accordance with 7 CFR 1901, Subpart E. You are expected to comply with the completion of the review, including the furnishing of any documents, records, or other applicable material.

SECTION V – REQUIREMENTS PRIOR TO GRANT CLOSING

29. Other Requirements – All requirements contained in the Agency’s closing instructions, as well as any requirements of your bond counsel and/or attorney, must be met prior to closing.

- a. **System for Award Management**. You will be required to maintain a Unique Entity ID (UEI) and maintain an active registration in the System for Award Management (SAM) database. Renewal can be completed online at: <http://sam.gov>. This registration must be renewed and revalidated every 12 months for as long as there is an active loan, grant, or guaranteed loan with the Agency.

To ensure the information is current, accurate and complete, and to prevent the SAM account expiration, the review and updates must be performed within 365 days of the activation date, commonly referred to as the expiration date. The registration process may take up to 10 business days. (See 2 CFR Part 25 and the “Help” section at <http://sam.gov>).

- b. **Litigation**. You are required to notify the Agency within 30 days of receiving notification of being involved in any type of litigation prior to grant closing or start of construction, whichever occurs first. Additional documentation regarding the situation and litigation may be requested by the Agency.
- c. **Certified Operator**. Evidence must be provided that your system has or will have a certified operator, as defined by applicable State or Federal requirements, available prior to the system becoming operational, or that a suitable supervisory agreement with a certified operator is in effect.

SECTION VI – REQUIREMENTS DURING CONSTRUCTION AND POST CONSTRUCTION

30. Construction Completion Timeframe – Following the benchmarks established in Section I, Item 4, Project Timeline, all projects should be completed and Agency funds fully disbursed within two years of the date of obligation. If funds are not disbursed within two years of obligation and you have not already done so per Section I, Item 4, you must submit a written request for extension of time to the Agency with adequate justification of the circumstances, including any beyond your control. The request must be submitted at least 90 days prior to the end of the two-year timeframe and include a revised estimated date of completion. The Agency will typically only allow one extension. Subsequent requests for waivers beyond the initial extension or requests that exceed five years from the initial date of obligation will be submitted to the Agency for consideration. The Agency retains the right to de-obligate any grant monies, or take other appropriate action, related to unliquidated funds that exceed the timeframes above and are not under an active extension.

31. Resident Inspector(s) – Full-time inspection is required unless you request an exception. Such requests must be made in writing and the Agency must provide written concurrence. Inspection services are to be provided by the consulting engineer unless other arrangements are requested in writing and concurred with by the Agency. A resume of qualifications of any resident inspector(s) will be submitted to the owner and Agency for review and concurrence prior to the pre-construction conference. The resident inspector(s) must attend the preconstruction conference.

32. Preconstruction Conference – A preconstruction conference will be held prior to the issuance of the Notice to Proceed. The consulting engineer will review the planned development with the Agency, owner, resident inspector, attorney, contractor, other funders, and other interested parties, and will provide minutes of this meeting to the owner and Agency.

33. Inspections - The Agency requires a preconstruction conference, pre-final, final, and warranty inspections. Your engineer will schedule a warranty inspection with the contractor and the Agency before the end of the 9-11 warranty period to address and/or resolve any outstanding warranty issues. The Agency will conduct an inspection with you of your records management system at the same time.

34. Change Orders – A Change Order must be submitted for all modifications to the approved scope of work, including existing contracts. This includes non-physical modifications such as any time extension requests. Prior written Agency concurrence is required for all Change Orders.

35. Payments – Prior Agency concurrence is required for all invoices and requests for payment before Agency funds will be released. Requests for payment related to a contract or service agreement will be signed by the owner, project engineer, and contractor or service provider prior to Agency concurrence. Invoices not related to a construction contract or service agreement will include the owner’s written concurrence.

36. Use of Remaining Funds – As stated above, applicant contribution and connection or tap fees will be the first funds expended in the project. Funds remaining after all costs incident to the basic project have been paid or provided will be handled as follows:

- a. Funds remaining after the applicant contribution and connection fees may be considered in direct proportion to the amounts of funding obtained from each source. The use of Agency funding will be limited to eligible grant purposes, provided the use will not result in major changes to the original scope of work and the purpose of the grant remains the same.
- b. Grant funds not expended for authorized purposes will be cancelled (de-obligated) within 60 days of final completion of project. Prior to actual cancellation, you and your attorney and engineer will be notified of the Agency’s intent to cancel the remaining funds and given appropriate appeal rights.
- c. Under no circumstances is it appropriate to use remaining funds as contributions to a new project outside the scope of the funded project.

37. Technical, Managerial and Financial Capacity - It is required that members of the Board of Directors, City Council members, trustees, commissioners and other governing members possess the necessary technical, managerial, and financial capacity skills to consistently comply with pertinent Federal and State laws and requirements. It is recommended members receive training within one year of appointment or election to the governing board, and a refresher training for all governing members on a routine basis. The content and amount of training should be tailored to the needs of the individual and the utility system. Technical assistance providers are available to provide this training for your organization, often at no cost. Contact the Agency for additional information.

38. Reporting Requirements Related to Expenditure of Funds -- An annual audit under 2 CFR 200 is required if you expend \$750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended.

All audits are to be performed in accordance with 2 CFR Part 200, as adopted by USDA through 2 CFR Part 400. Further guidance on preparing an acceptable audit can be obtained from the Agency. The audit must be prepared by an independent licensed Certified Public Accountant, or a State or Federal auditor if allowed by State law and must be submitted within 9 months of your fiscal year end. Both the audit and accompanying management report must be submitted for review.

If an audit is required, you must enter into a written agreement with the auditor and submit a copy of that agreement to the Agency prior to the advertisement of construction bids. The audit agreement may include terms and conditions that the borrower and auditor deem appropriate; however, the agreement should include the type of audit to be completed, the time frame in which the audit will be completed, and how irregularities will be reported.

39. Statutory and National Policy Requirements – As a recipient of Federal funding, you are required to comply with U.S. statutory and public policy requirements, including but not limited to:

- a. **Section 504 of the Rehabilitation Act of 1973** – Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Agency financial assistance.
- b. **Civil Rights Act of 1964** – All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and 7 CFR 1901, Subpart E, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by Paragraph 1901.202(e) of this Title.
- c. **The Americans with Disabilities Act (ADA) of 1990** – This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications.
- d. **Age Discrimination Act of 1975** – This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- e. **Limited English Proficiency (LEP) under Executive Order 13166** - LEP statutes and authorities prohibit exclusion from participation in, denial of benefits of, and discrimination under Federally-assisted and/or conducted programs on the ground of race, color, or national origin. Title VI of the Civil Rights Act of 1964 covers program access for LEP persons. LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance, free of charge. You must take reasonable steps to ensure that LEP persons receive the language assistance necessary to have meaningful access to USDA programs, services, and information your organization provides. These protections are pursuant to Executive Order 13166 entitled, “Improving Access to Services by Persons with Limited English Proficiency” and further affirmed in the USDA Departmental Regulation 4330-005, “Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA.”
- f. **Controlled Substances Act** - Even though state law may allow some activities, as a recipient of Federal funding, you are subject to the Controlled Substances Act. Specific questions about the Controlled Substances Act should be directed to the Servicing Official who will contact the Office of General Counsel, as appropriate.

40. Compliance Reviews and Data Collection– Agency financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap. You must display posters (provided by the Agency) informing users of these requirements, and the Agency will monitor your compliance with these requirements during regular compliance reviews.

The Agency will conduct regular compliance reviews of the borrower and its operation in accordance with 7 CFR Part 1901, Subpart E, and 36 CFR 1191, Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines. Compliance reviews will typically be conducted in conjunction with the security inspections described in this letter.

If beneficiaries (users) are required to complete an application or screening for the use of the facility or service that you provide, you must request and collect data by race (American Indian or Alaska Native, Asian, Black or African American, White); ethnicity (Hispanic or Latino, Not Hispanic or Latino); and by sex. The Agency will utilize this data as part of the required compliance review.

SECTION VII – REMEDIES FOR NON-COMPLIANCE

Non-compliance with the conditions in this letter or requirements of your security documents will be addressed under the provisions of Agency regulations, statutes, and other applicable policies.

We look forward to working with you to complete this project. If you have any questions, please contact Esther De La Cruz at 831-975-7762 or by e-mail at esther.delacruz@usda.gov

Sincerely,

Esther De La Cruz
Area Specialist

Attachments

cc: Luis Andrade, Water and Environmental Program Director
Benny Young, Management Specialist County of Monterey
Kari Wagner, Principal/Director of Water Resources

FORMS and BULLETINS:

- Form AD-3031 “Assurance Regarding Felony Convictions or Tax Delinquent Status for Corporate Applicants” – Item 26
- Internal Revenue Service Form 1023, Appendix A, “Sample Conflict of Interest Policy” - Item 13
- Form RD 442-20, “Right-of-Way Easement” – Item 12
- Form RD 442-21, “Right-of-Way Certificate” – Item 12
- Form RD 442-22, “Opinion of Counsel Relative to Rights-of-Way” – Item 12
- Form RD 1927-9, “Preliminary Title Opinion” – Item 12
- Form RD 1927-10, “Final Title Opinion” – Item 22
- Form RD 1940-1, “Request for Obligation of Funds” – Page 2
- Form RD 1942-46, “Letter of Intent to Meet Conditions” – Page 2
- SF 3881, “ACH Vendor/Miscellaneous Payment Enrollment Form” – Item 20
- RUS Bulletin 1780-7, “Legal Services Agreement” – Item 11
- RUS Bulletin 1780-9, “Water Users Agreement” - Items 13
- RUS Bulletin 1780-12 Exhibit B, “ECWAG Grant Agreement” – Item 5
- RUS Bulletin 1780-12 “Grant Agreement” – Item 5
- RUS Bulletin 1780-26, “Guidance for the Use of EJCDC Documents on Water and Waste Projects with RUS Financial Assistance” – Items 9 and 10

Appendix A

A. Reporting Total Compensation of Recipient Executives

In the rare instance in which all of the following apply, please contact your POB Specialist for language to include in the LOC:

1. The total Federal funding authorized to date under this award is \$30,000 or more;
2. In the preceding fiscal year, the applicant received—
 - (A) 80 percent or more of their annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
3. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

B. Subaward and Subrecipients

In the rare instance in which there is a subrecipient in the project, please contact your POB Specialist for language to include in the LOC:

Subrecipient means an entity that:

- i. Receives a subaward from the recipient under this award; and
- ii. Is accountable to the recipient for the use of the Federal funds provided by the subaward.
 - a. Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.