

Attachment B

This page intentionally left blank.

State of California – Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION
DIVISION OF BOATING AND WATERWAYS

GRANT AGREEMENT

GRANTEE: Monterey County Resource Management Agency

GRANT AGREEMENT PERFORMANCE PERIOD is from: Effective date and continue for 10 Years from the Date of Acceptance of the Project (Floating Restroom Units #242, 243 and 244).

PROJECT TITLE: Lake Nacimiento, Floating Restroom(s) Installation and Operation (#1045)

GRANT AGREEMENT NUMBER: C8956501

The Grantee agrees to the terms and conditions of this grant, hereinafter referred to as Agreement, and the State of California, acting through its Director of Parks and Recreation, pursuant to the State of California agrees to provide this in-kind grant of floating restroom(s) worth \$78,171.48 each, for a total of \$234,514.44 to the Grantee identified above.

The AGREEMENT consists of Exhibit A "Floating Restroom Facility Grant Installation and Operation Agreement", Exhibit B "Invoices – Topper Industries, Inc., and Exhibit C "GTC 04/2017 General Terms and Conditions": 24 total pages.

This Grant is funded by the U.S. Fish and Wildlife Sport Fish Restoration Program and the Harbors and Watercraft Revolving Fund, administered by California Department of Parks and Recreation, Division of Boating and Waterways. Total Federal FY13 award, F13AP00387 Inland Clean Vessel Grant, to California is: \$1,134,000.

Grantee: Monterey County
Resource Management Agency
Address: 1441 Schilling Place, 2nd Floor
Salinas, CA 93901-4527

Agency: Department of Parks and Recreation
Division of Boating and Waterways
Address: One Capitol Mall, Suite 500
Sacramento, CA 95814

BY: _____
(Authorized Signature)

BY: _____
(Authorized Signature)

CARL P. HOLM, AICP, RMA DIRECTOR
(Printed Name and Title of Authorized Representative)

KEREN DILL, STAFF SERVICES MANAGER II
(Printed Name and Title of Authorized Representative)

Date _____

Date _____

**CERTIFICATE OF FUNDING
(FOR STATE USE ONLY)**

GRANT C8956501	AMENDMENT NO	CALSTARS VENDOR NO		PROJECT NO
AMOUNT ENCUMBERED BY THIS DOCUMENT \$ZERO	FUND TITLE HARBORS AND WATERCRAFT REVOLVING FUND FEDERAL TRUST FUND (F13AP00387)		AGENCY BILLING CODE NO 053709	
PRIOR AMOUNT ENCUMBERED BY THIS DOCUMENT \$ZERO	ITEM 3790-101-0516 3790-101-0890	CHAPTER 20 20	STATUTE 2013 2013	FISCAL YEAR 2016/17 2016/17
TOTAL AMOUNT ENCUMBERED TO DATE \$ZERO	INDEX 1709	OBJECT CODE 702	PCA CODE 61001 68001	PROJECT/WORK PHASE
T.B.A. NO	<i>I hereby certify upon my own personal knowledge that the budgeted funds are available for this encumbrance.</i>			
B.R.NO	ACCOUNTING OFFICER'S SIGNATURE		DATE	

FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT

Table of Contents

ARTICLE 1 – DEFINITIONS3
ARTICLE 2 – GRANTEE’S WARRANTIES3
ARTICLE 3 – TERM OF AGREEMENT4
ARTICLE 4 – GRANT.....4
ARTICLE 5 – USER FEES (50CFR85.44).....4
ARTICLE 6 – PROJECT COMPLETION DATE4
ARTICLE 7 – DISBURSEMENT OF GRANT5
ARTICLE 8 – PROCUREMENT OF THE PROJECT5
ARTICLE 9 – OPERATION AND MAINTENANCE OF PROJECT5
ARTICLE 10 – WAIVER OF RIGHTS7
ARTICLE 11 – PROJECT REPRESENTATIVES7
ARTICLE 12 – REMEDIES NOT EXCLUSIVE.....7
ARTICLE 13 – OPINIONS AND DETERMINATIONS8
ARTICLE 14 – ASSIGNMENT8
ARTICLE 15 – SUCCESSORS AND ASSIGNS OBLIGATED8
ARTICLE 16 – TERMINATION8
ARTICLE 17 – LIABILITY9
ARTICLE 18 – INSPECTION OF BOOKS, RECORDS, AND REPORTS10
ARTICLE 19 – WAIVERS10
ARTICLE 20 – DISPUTE RESOLUTION10
ARTICLE 21 – WAIVER OF THE STATUTE OF LIMITATIONS11
ARTICLE 22 – NOTICES11
ARTICLE 23 – PRIOR TERMINATION11
ARTICLE 24 – AUDIT11
ARTICLE 25 – SUPERSEDING GENERAL TERMS AND CONDITIONS11
ARTICLE 26 – IMPLEMENTATION OF PROJECT11
ARTICLE 27 – COMPLIANCE WITH FEDERAL REQUIREMENTS12
ARTICLE 28 – FEDERAL CONTRACT RESTRICTIONS12
ARTICLE 29 - MANDATORY DISCLOSURES.....12
ARTICLE 30 - GRANTEE IDENTIFICATION NUMBER.....13

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

ARTICLE 31 - NATIONAL LABOR RELATIONS BOARD CERTIFICATION.....13
ARTICLE 32 - STATE OF COMPLIANCE.....13
ARTICLE 33 - NONDISCRIMINATION CLAUSE.....13
**ARTICLE 34 - ENHANCEMENT OF RECIPIENT AND SUBRECIPIENT EMPLOYEE
WHISTLEBLOWER PROTECTION.....14**
ARTICLE 35 - EQUAL OPPORTUNITY CLAUSE.....15

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

ARTICLE 1 – DEFINITIONS

- A. “Date of Acceptance”: The date that the Project is delivered to the Grantee, which denotes the beginning of the ten (10) year portion of the Grant term in accordance with Article 3 of this Exhibit.
- B. “Department”: The Department of Parks and Recreation, Division of Boating and Waterways.
- C. “Effective Date”: The Effective Date of this Agreement is either the mutually agreed upon start date or the approval date by the Department of General Services (DGS), whichever is later. In cases when DGS approval is not required this Agreement is of no force or effect until the date of the last signature.
- D. “Grant”: Equipment provided pursuant to Harbors and Navigation Code Section 72.7 and the Federal Clean Vessel Act of 1992 (50 CFR Part 85) to finance all or part of the Project as described in Article 4 of this Exhibit.
- E. “Grant Agreement”: means the agreement to which these standard terms and conditions are appended.
- F. “Grantee”: The Entity identified as Grantee on the face page of the Agreement.
- G. “Open and Available to the Public”: All users (public and private) shall have full and reasonable access to the floating restroom facilities for the purpose of sewage disposal.
- H. “Project”: The floating restrooms(s) and/or trailer(s) granted by the Department for operation at the locale(s) specified.

ARTICLE 2 – GRANTEE’S WARRANTIES

- A. Grantee warrants that it has title to, or adequate interests in, the Project Area. Adequate interests include, but are not limited to, the following:
 - 1. Access to the Project Area by a maintained public way,
 - 2. A right of passage over a waterway, open to the public, between the Project Area and navigable waters, and

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

3. Easements or other rights of way outside the Project Area sufficient to provide utilities and services to the Project.

ARTICLE 3 – TERM OF AGREEMENT

- A. This Agreement, subject to any provision for prior termination, shall begin on the Effective Date and shall continue for ten (10) years from the Date of Acceptance of floating restroom(s) to the Grantee by the Department.
- B. This Agreement may be extended, amended, or cancelled upon the written agreement of the parties.

ARTICLE 4 – GRANT

- A. The Department will grant the Grantee two floating restrooms for installation and operation at Lake San Antonio, in compliance with the regulations of the Clean Vessel Act (50 CFR Part 85). Henceforth referred to as Project.
- B. No Grant funds are awarded under this Agreement.
- C. This Grant is subject to the terms and conditions in Exhibits A, B, and C, of this Agreement.
- D. This Grant provides for facilities purchased wholly or in part by Federal Funds [FED CATALOG 15.616].

ARTICLE 5 – USER FEES (50CFR85.44)

The Grantee may not charge a fee for the use of the Project covered by this Agreement.

ARTICLE 6 – PROJECT COMPLETION DATE

The Grantee shall complete the installation of the Project no later than sixty (60) calendar days after delivery of the Project unless Grantee is provided a written exemption by the Department.

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

ARTICLE 7 – DISBURSEMENT OF GRANT

The Department may withhold approval of the Grant if the Grantee fails to comply with any of the conditions and provisions of this Agreement.

ARTICLE 8 – PROCUREMENT OF THE PROJECT

- A. The Department shall procure the Project for the Grantee; procurement shall include delivery to the Project location.
- B. The Grantee shall be responsible for procuring hardware such as anchors, cable, and buoys necessary for anchoring the Project.
- C. The Grantee shall be responsible for the installation and anchoring of the Project which is to be done under the supervision of qualified inspectors.

ARTICLE 9 – OPERATION AND MAINTENANCE OF PROJECT

- A. The Grantee shall operate the Project and shall not, during the term of the Agreement, sell, exchange, mortgage, or hypothecate in any manner all or any portion of the Project without the advance written approval of the Department.
- B. Because the Department has invested public funds in this facility, the Department has a vested interest in its success. The Grantee therefore shall ensure that the facilities are operated and maintained in a manner that will prevent discharge of any sewage to the waters of the State. The facilities shall be maintained in good working order, and they shall be regularly cleaned for the entire term of this Agreement.
- C. Project shall be subject to periodic die testing for the term of the grant agreement. This testing may be performed by representatives of DBW and/or grantee staff. The purpose of the testing is to identify any previously undetected issues in the floating restroom so they can be addressed promptly as to prevent waterbody pollution and possible fines that may be imposed by environmental agencies.

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

- D. The Grantee shall at a minimum maintain the project in accordance with the Maintenance Guidelines below:
- a. Floating restroom facilities shall be inspected weekly for cleanliness, and general operating condition. All repairs shall be completed within 72 hours of identifying a need. Perform cleanup and maintenance as required.
 - b. As recommended by the equipment manufacturer, perform preventative maintenance for all equipment according to the manufacturer's recommended schedule.
- E. The Department shall not be liable for any costs of such maintenance, repair, management, control, or operation of the Project.
- F. The Project shall be open and accessible for the use and enjoyment by the general public on equal and reasonable terms for the full term of this Agreement. The floating restroom(s) shall not be moored, tied to, or located within or immediately adjacent to any marina. The intention of the floating restrooms is to provide sanitary facilities in locations that would not otherwise be available due to remote location, limited or no landside access, or rough topography.
- G. The Project shall be maintained and operated with due regard to public safety and in accordance with all applicable laws, ordinances, and regulations.
- H. All contracts shall contain a clause stating that the Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee who is employed in the work covered by such contracts or against any applicant for such employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, and that such provisions shall include, but not be limited to: employment, upgrading, promotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

- I. The Department and its agents may, at any and all reasonable times during the term of this Agreement, enter the Project for purposes of inspecting the facilities to determine if the facility is being operated and maintained according to the terms of this Agreement.
- J. The Grantee shall annually provide information about the use and reliability of the Project using the form provided by the Department unless Grantee has a form otherwise approved by the Department in writing.

ARTICLE 10 – WAIVER OF RIGHTS

Any waiver by either party hereto of its rights with respect to a default or any other matter arising in connection with this Agreement shall not be deemed to be a waiver with respect to any other default or matter.

ARTICLE 11 – PROJECT REPRESENTATIVES

The Grantee and the Department shall each designate specific staff representatives for the purposes of communication between parties. Grantee's representative shall be by delegation of authority, signed by the person authorized to sign the Agreement or any amendments, and to make decisions concerning the Agreement. Either party may make changes to the information above by giving thirty (30) days written notice to the other party.

ARTICLE 12 – REMEDIES NOT EXCLUSIVE

The use by either the Department or the Grantee of any remedy specified in this Agreement for the enforcement of this Agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

ARTICLE 13 – OPINIONS AND DETERMINATIONS

Where the terms of this Agreement provide for action to be based upon the opinion, judgment, approval, review, or determination of either the Department or Grantee, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

ARTICLE 14 – ASSIGNMENT

No assignment or transfer of this Agreement or any part hereof, rights hereunder, or interest herein by the Grantee shall be valid unless and until it is approved by the Department in writing. The Department's approval shall be granted at its sole discretion and may be made subject to such reasonable terms and conditions as the Department may impose.

ARTICLE 15 – SUCCESSORS AND ASSIGNS OBLIGATED

This Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties hereto.

ARTICLE 16 – TERMINATION

- A. For Convenience. The Department may terminate this Agreement at any time for the convenience of the State upon thirty (30) days prior written notice, delivered by certified mail or in person to Grantee. Upon notice of such termination, Grantee shall, within thirty (30) days, relinquish the Project to the Department.
- B. Grantee may terminate this Agreement at any time upon thirty (30) days prior written notice, delivered by certified mail or in person to the Department, provided, however, that upon any such termination of the Agreement Grantee shall, within thirty (30) days of such termination, relinquish the Project to the

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

Department. The Grantee shall be responsible for all shipping and related costs to deliver the Project to a location as determined by the Department.

- C. For Default. The Department may at any time upon ninety (90) days prior written notice of default, and, when applicable, after having afforded Grantee an opportunity to cure any breach to this Agreement, terminate this Agreement if the Grantee has failed to abide by any applicable provision of this Agreement. In such case, Grantee shall, within ninety (90) days of its receipt of a notice of termination relinquish the Project to the Department. The Grantee shall be responsible for all shipping and related costs to deliver the Project to a location as determined by the Department.

ARTICLE 17 – LIABILITY

- A. The Grantee waives all claims and recourse against the Department including the right to contribution for any losses or damages arising from, growing out or in any way connected with or incident to this Agreement.
- B. The Grantee agrees to indemnify, defend and hold harmless, the Department, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm, entity or corporation, furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and/or from any and all claims and losses accruing or resulting to any person, firm, entity or corporation who may be injured or damaged in the performance of this Agreement.
- C. The Grantee shall indemnify, hold harmless, and defend the Department, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability connected with or arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the Project.
- D. If the Department is named as a codefendant, the Grantee shall notify the Department and represent it unless the Department elects to represent itself. If

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

the Department undertakes its own defense, it shall bear its own litigation costs, expenses, and attorney's fees.

ARTICLE 18 – INSPECTION OF BOOKS, RECORDS, AND REPORTS

During regular office hours, each of the parties or their duly authorized representatives shall have the right to inspect and make copies of any books, records, or reports of the other party pertaining to this Agreement or matters related hereto. Both parties shall maintain and make available for such inspection accurate records of all of its costs, disbursements, and receipts with respect to its activities under this Agreement.

ARTICLE 19 – WAIVERS

No delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any written waiver on the part of any party or any right, power or privilege hereunder, nor any single or partial exercise of any right, power or privilege hereunder, preclude any other or further exercise thereof of the exercise of any other right, power or privilege hereunder. A written waiver of any breach of any kind shall not be construed as a waiver of any subsequent breach of the same kind.

ARTICLE 20 – DISPUTE RESOLUTION

Any dispute arising under the terms of this Agreement which is not disposed of within a reasonable period of time by the Grantee and Department representatives normally responsible for the administration of this Agreement shall be brought to the attention of the Deputy Director of the Department or their designee. At the request of either party, the Department shall provide a forum for the discussion of the disputed matter(s). If agreement cannot be reached through the application of high level management attention, either party may assert its other rights and remedies within this Agreement in a court of competent jurisdiction.

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

ARTICLE 21 – WAIVER OF THE STATUTE OF LIMITATIONS

Grantee waives the benefit of any limitations affecting its liability hereunder or the enforcement thereof to the extent permitted by law.

ARTICLE 22 – NOTICES

Notices required between the parties shall be deemed to have been given when mailed to the respective addresses herein, first class postage fully prepaid thereon, unless otherwise required by law.

ARTICLE 23 – PRIOR TERMINATION

The Agreement shall terminate on the date specified in Article 3 of this Exhibit if by such date (1) the Grantee has not met all conditions precedent to disbursement under this Agreement or (2) if the Department has disbursed no part of the Grant funds.

ARTICLE 24 – AUDIT

In addition to the Audit requirements specified in Exhibit C, Grantee understands and agrees that, as a recipient of Federal Funds, it must comply with any applicable audit requirements imposed by federal law, regulations or policy, such as the Single Audit Act and the reporting requirements set forth in OMB Circular A-135 and 2CFR200.

ARTICLE 25 – SUPERSEDING GENERAL TERMS AND CONDITIONS

The reference to the Contractor in Exhibit C is the Grantee in this Agreement. Paragraph 5, in Exhibit C is replaced by Article 17 of this Exhibit A.

ARTICLE 26 – IMPLEMENTATION OF PROJECT

All contracts for the Project shall be awarded in accordance with all applicable laws and regulations.

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

ARTICLE 27 – COMPLIANCE WITH FEDERAL REQUIREMENTS

The Project(s) have been funded with Federal Funds. The Grantee shall comply with all applicable Federal laws, regulations, and policies, including those summarized in Part 523, Chapter 1 of the U.S. Fish and Wildlife Service Handbook. These requirements include provisions for nondiscrimination, environmental standards, historic and cultural preservation, and other administrative guidelines, and are incorporated herein by this reference as if fully set forth.

ARTICLE 28 – FEDERAL CONTRACT RESTRICTIONS (not applicable to Non-Federal entities)

- A. Nothing herein shall be construed as (1) obligating the Government to expend, or (2) involving the Government in any contract or other obligation for the future payment of, money in excess of appropriations authorized by law and administratively allocated for this work.
- B. No member of or delegate to Congress or Resident Commissioner shall be admitted to share any part of this Agreement, or to any benefit that may arise there from; but this provision shall not be construed to extend to this Agreement if made with the corporation for its general benefit.

ARTICLE 29 - MANDATORY DISCLOSURES

The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in §200.338 remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180 and 31 U.S.C. 3321).

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

ARTICLE 30 - GRANTEE IDENTIFICATION NUMBER

Each Grantee who enters into an Agreement with the State of California must provide their Federal Employee Identification Number (FEIN), or Social Security Number (SSN), whichever is applicable.

ARTICLE 31 - NATIONAL LABOR RELATIONS BOARD CERTIFICATION

By signing this Agreement, the Grantee affirms under penalty of perjury, that no more than one (1) final, unappealable finding of contempt of court by a federal court has been issued against the Grantee or any of its contractors within the immediately preceding two year period because of Grantee's failure to comply with an order of a federal court which ordered the Grantee to comply with an order of the National Labor Relations Board (California Public Contract Code §10296).

ARTICLE 32 - STATEMENT OF COMPLIANCE

By signing this Agreement, the Grantee certifies under penalty of perjury under the laws of the State of California, unless specifically exempted, that it has complied with California Government Code §12990 and the California Code of Regulations, Title 2, Division 4, Chapter 5, in matters relating to the development, implementation, and maintenance of a nondiscrimination program.

ARTICLE 33 - NONDISCRIMINATION CLAUSE

A. During the performance of this Agreement, the Grantee and all of its contractors and subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

orientation, or military and veteran status. Grantee and all of its contractors and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

- B. Grantee and all of its contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (California Government Code §12900, et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5) are incorporated herein by reference, and made a part hereof as if set forth in full. Grantee and all of its contractors and subcontractors shall give written notice of their obligation under this clause to labor organizations with which they have a collective bargaining or other Agreement.

**ARTICLE 34 - ENHANCEMENT OF RECIPIENT AND SUBRECIPIENT EMPLOYEE
WHISTLEBLOWER PROTECTION**

- A. This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award and related subawards and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies established at 41 USC 4712.
- B. Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC 4712.
- C. The recipient shall insert this clause, including this paragraph (c), in all subawards and contracts over the simplified acquisition threshold related to this award.

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

ARTICLE 35 - EQUAL OPPORTUNITY CLAUSE
Federally assisted construction Grants.

The applicant (Grantee) hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a Grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such Grant, contract, loan, insurance, or guarantee, the following equal opportunity clauses:

1. The Grantee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Grantee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Granting officer setting forth the provisions of this nondiscrimination clause.
2. The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The Grantee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

understanding, a notice to be provided by the agency Granting officer, advising the labor union or workers' representative of the Grantee's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Grantee will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Grantee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Granting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Grantee's non-compliance with the nondiscrimination clauses of this Grant or with any of such rules, regulations, or orders, this Grant may be canceled, terminated or suspended in whole or in part and the Grantee may be declared ineligible for further Government Grants in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The Grantee will include the provisions of paragraphs (1) through (7) in every contract, subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each contractor, subcontractor or vendor. The Grantee will take such action with respect to any contract, subcontract

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the Grantee becomes involved in, or is threatened with, litigation with a contractor, subcontractor or vendor as a result of such direction, the Grantee may request the United States to enter into such litigation to protect the interests of the United States.

- A. The applicant (Grantee) further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* that if the applicant (Grantee) so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Grant.
- B. The applicant (Grantee) agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency (Department) in the discharge of the agency's primary responsibility for securing compliance.
- C. The applicant (Grantee) further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction Grants or contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Grantees and contractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant (Grantee)

**FLOATING RESTROOM FACILITY GRANT
INSTALLATION AND OPERATION AGREEMENT**

agrees that if it fails or refuses to comply with these undertakings, the administering agency (Department) may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this Grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant (Grantee) under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant (Grantee); and refer the case to the Department of Justice for appropriate legal proceedings.

Subcontracts. Each of Grantee's nonexempt prime contractors or subcontractors shall include the equal opportunity clause in each of its nonexempt subcontracts.

- A. *Incorporation by reference.* The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Deputy Assistant Secretary may designate.
- B. *Other incorporation.* The equal opportunity clause shall be considered to be a part of every one of Grantee's contracts and subcontracts and all such contracts and subcontracts shall be deemed to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

INVOICE

EXHIBIT "B"

Grant Agreement
#C8956502



TOPPER INDUSTRIES, INC.

P.O. Box 2050
Woodland, WA. 98674
Phone (360) 841-8320 / Fax (360) 841-8021


TERMS: NET 30
SUPPLY CONTRACT: NO RETAINAGE

INVOICE NUMBER: 9535

A SERVICE CHARGE OF 1.5% PER
MONTH WILL BE ASSESSED ON ALL
CREDIT AMOUNTS NOT PAID WHEN DUE.

Sold To: DEPARTMENT OF PARKS & RECREATION (Sacto) ONE CAPITOL MALL: SUITE 410 ATTENTION: CONTRACTS SECTION SACRAMENTO, CALIFORNIA 95814	Ship To: LAKE SAN ANTONIO MONTEREY COUNTY
--	--

INVOICE DATE	JOB NUMBER	SHIP VIA	SHIP DATE	SALES REP.	CUSTOMER ORDER NO
4-24-15	6648	TRUCK	4-24-15	BAA	330

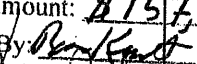
QTY SHIPPED	QTY ORDERED	DESCRIPTION	UNIT PRICE	AMOUNT
2	2	FLOATING RESTROOMS: #245 & #246	72,381.00	144,762.00
		CALIFORNIA SALES TAX: MONTEREY = 8.625%		12,485.72
		DELIVERED TO LAKE SAN ANTONIO		
		Approved 4-27-15 		


PAYMENT REQUEST

Project: Topper Industries Inc.

Contract Number: PO# 000330-01

Payment Amount: \$157,247.72

Approved By:  Date: 5/12/15

Supervisor:  Division: 6101

\$117,935.79 from PCA # 68101
\$39,311.93 from PCA # 61001

TOTAL DUE: \$157,247.72

GTC 04/2017

EXHIBIT C

GENERAL TERMS AND CONDITIONS

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

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

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

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

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

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

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

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

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

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

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

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

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

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

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

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

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

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support

enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

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

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

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

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

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

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

20. LOSS LEADER:

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