

AGENDA
CITY COMMISSION SPECIAL MEETING
Friday, September 16, 2016
9:00 A.M.
City Administrative Center, 301 N. 8th Street

I. SPECIAL MEETING CALLED TO ORDER AND CITY CLERK ANNOUNCING QUORUM PRESENT.

- A. The Governing Body is asked to consider and approve a grant agreement between the United States Department of the Interior, Bureau of Reclamation and the City of Garden City, Kansas.

II. ADJOURN.



Memo

CITY COMMISSION

J. CHRISTOPHER LAW,
Mayor

JANET A. DOLL

ROY CESSNA

MELVIN L. DALE

DAN FANKHAUSER

MATTHEW C. ALLEN
City Manager

MELINDA A. HITZ, CPA
Finance Director

RANDALL D. GRISELL
City Counselor

CITY ADMINISTRATIVE
CENTER
301 N. 8TH
P.O. Box 998
GARDEN CITY, KS
67846-0998
620.276.1160
FAX 620.276.1169
www.garden-city.org

To: Mayor and City Commissioners

Thru: Matt Allen, City Manager

From: Fred Jones, Water Resource Manager

Date: September 13, 2016

Re: Bureau of Reclamation Field Services Grant Agreement

ISSUE

The Governing Body is asked to consider and approve a grant agreement between the United States Department of the Interior, Bureau of Reclamation and the City of Garden City, Kansas.

BACKGROUND

This past February the City submitted a proposal to develop a Sub-Surface Irrigation Demonstration Area at Clint Lightner Field. The purpose of project is to gather data from the project to determine water conservation potential and study the possibility of using sub-surface technology as a delivery vehicle for effluent water re-use in city facilities that have high human contact potential.

Information gathered from this demonstration area will give the City valuable information about how sub-surface irrigation impacts water consumption and water demand. The information will also be used to provide data for the city as we pursue ways to effectively re-use water in the community. Opportunities for water re-use are part of an overall strategy to reduce demand for potable water and prolong water resources

The total cost of the project is \$223,430.77. The Bureau of Reclamation will provide \$92,250.00 in funding for the project and the City will provide the \$131,180.77 balance. The project timeline of the grant, if approved, will begin October 1, 2016 and conclude by September 30, 2018.

The Bureau of Reclamation established the Water Conservation Field Services Program in 1996 to encourage water conservation on Reclamation Projects, assist irrigation districts to develop and implement water conservation plans, and foster improved water management.

ALTERNATIVES

1. Approve the agreement
2. Decline the agreement and direct staff to find alternate funding mechanism.

RECOMMENDATION

Staff recommends alternative #1.



FISCAL NOTE

The total project cost authorized in the agreement is \$223,430.77. The Bureau of Reclamation has approved \$92,250.00 in project costs. The 2017 Water Budget will be adjusted to accommodate the \$131,180.77 project cost share.

CITY COMMISSION

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**An Application from the City of Garden City, Kansas for
a Sub-Surface Irrigation Demonstration Area as a
Planning Tool for Effluent Re-Use and Water
Conservation Promotion.**

**U.S. Department of the Interior
Bureau of Reclamation
Great Plains Region
Oklahoma – Texas Area Office**

**Water Conservation Field Services Program
Funding Opportunity Number BOR-GP-16-0005**

Submitted: February 26, 2016



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BACKGROUND

About the Community

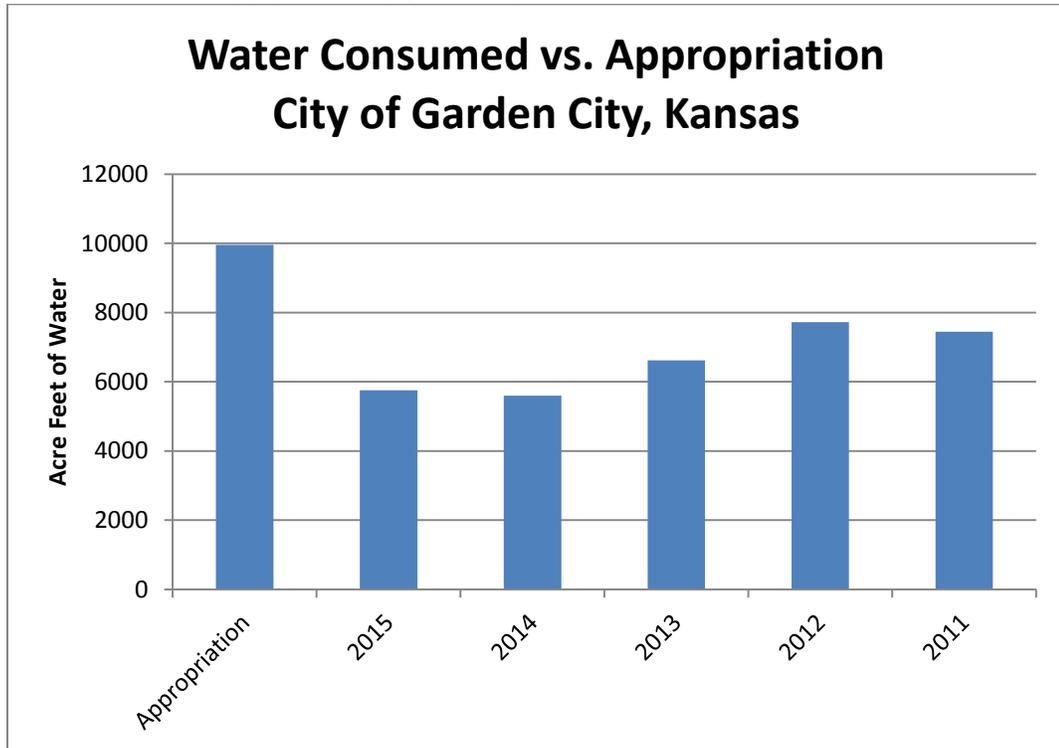
The City of Garden City, Kansas is a First-Class City and the county-seat of Finney County Kansas. The City has a population of approximately 31,000 and serves as a regional hub for services, shopping, and healthcare services. Historically the area has been home to numerous animal feeding and processing operations. The City has experienced major growth in manufacturing and industry over the past decade specifically in the energy and transportation sector including a 100 MGY ethanol plant and large facility that stages wind turbines and towers for rail to truck transfer.

Currently Dairy Farmers of America (DFA) are constructing a large milk drying facility to create milk powder for domestic and export use in the food industry. The construction of this facility is driving efforts to find effective and beneficial effluent re-use methods. As part of the development agreement the City has purchased exclusive access to the effluent water produced by the milk drying process.

The City is served by numerous ground water rights and source wells providing an appropriation of 9,010 acre feet of water. Additionally the City purchases an additional 951 acre feet of water from an area utility via a long term water treatment contract. This brings the communities total available water to 9,961 acre feet. The city is using approximately 67% of its available water each year. The City does not have any water delivery or purchase agreement with Bureau of Reclamation affiliated projects.

The City water delivery system consists of 164 miles of water main serving approximately 8,100 service connections. Total water delivery in 2015 was 5,753.9 acre feet.

Table 1. Water Consumed vs. Appropriation / City of Garden City, Kansas



Purpose, Objective and Potential Savings

The City has committed to taking a guaranteed quantity of water from the DFA on a daily basis starting in the 2nd quarter of 2018. As a result the City will be developing a Water Reuse Utility to distribute the water for beneficial use. The City has determined that it has three options, or a combination thereof, for the use of this effluent:

- Sell the effluent for Industrial, Commercial, or Agricultural Reuse
- Transport the effluent via pipeline to a location on the west side of Garden City where it can be used for a constructed wetlands and indirect potable recharge that would benefit three source wells that are used to supply the reverse osmosis water treatment facility that serves the City. This concept was developed in the late 1990's with the Army Corps of Engineers – Tulsa Office.
- Construct infrastructure from any pipeline to provide water to facilities for outdoor irrigation on park and recreation facilities, thereby directly offsetting potable water use. Excess water to be diverted for indirect potable recharge.

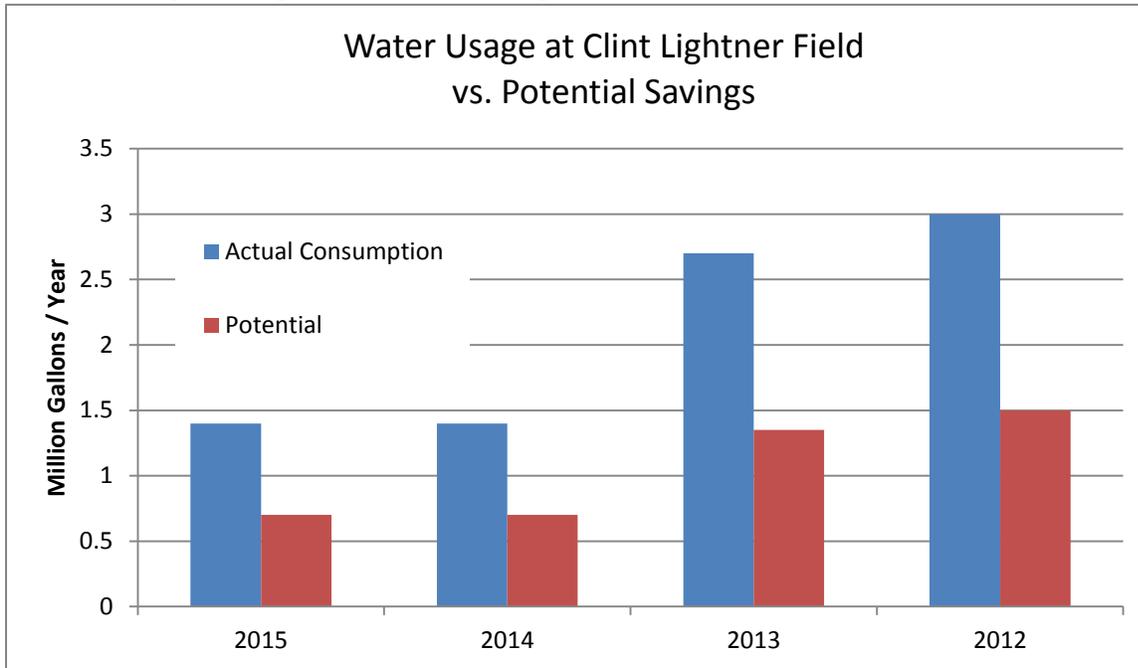
The project proposed in this application will gauge the feasibility of a large scale conversion of irrigated public grounds to a new source of treated effluent water that is reserved by the City in the 2nd quarter of 2018. This project is a demonstration activity that will incorporate technology in a new setting with the intent of promoting wider adoption in the public and private sectors.

The objective is the installation of a subsurface drip irrigation system at Clint Lightner Field, our main competition baseball field. This system will be coupled with a smart controller system to allow better flow monitoring, leak detection, and variable operation based on evapotranspiration.

Our strategy in converting limiting the scope of the conversion to drip irrigation is to measure the water savings impact and identify maintenance and design issues to ensure that a final conversion to an effluent resource would be implemented with the best result and with a full understanding of the water savings impact.

The initial irrigation conversion in this proposal would use potable water supply initially. We have calculated the potential savings to the potable water system.

Table 2. Water Usage at Clint Lightner Field vs. Potential Savings



Currently the City of Garden City has a full AMI metering infrastructure. This has helped us develop an accurate metering history of all water accounts within the City. This also allows us to use data provided by vendors to determine the gallons that could be potentially saved through a conversion. We anticipate, conservatively, that we could save 50% of our water usage at Clint Lightner Field by converting to a subsurface irrigation system and smart controllers. Looking at this potential savings compared to the last four years of operation at the facility, we can see that we used 8.6 million gallons of water for irrigation at this field alone. Calculating the potential savings of 50% would have consumed 4.3 million gallons of water, with a potential savings of 4.3 million gallons or 13.1 acre feet of water over a four year period on a 2.83 acre parcel.



Figure 1: Clint Lightner Field - Conversion Area (the infield is artificial turf)

The installation of subsurface irrigation would allow a safe conversion to an effluent water source. If the pilot drives an effluent water conversion, savings would be amplified because the effluent stream is not generated by city water sources. In this case, effluent produced by the milk drying process comes from milk produced in regional dairies. In essence use of this effluent stream could be construed as an importation of water into the community.

A successful pilot conversion could set the stage to move forward with a more robust conversion away from potable water resources. This would include public and private entities that are located near the effluent distribution infrastructure. A full conversion as outlined in *Table 4* could potentially save 213 acre feet of water per year.

Table 4. Water Requirements for Potential Effluent Water Irrigation Sites.

Location	Irrigation Gal.	Meter Size	Meter #	New Service Req'd.
Charles Stones	1,213,500	2"	3957	No
Victor Ornelas	5,167,800	4"	9447	No
Garcia Soccer Complex	3,887,400	4"	5388	No
Southeast Community Park	9,156,413	4"	N/A	Yes
US 83 Frontage	4,200,000	1" (x10)	N/A	Yes
Finnup Park Complex	31,000,000	10"	N/A	Yes
Tangeman Complex	15,000,000	10"	N/A	Yes
Total	69,625,113			

The sites outlined in *Table 4* list only the major public entities in the area and do not consider potential commercial and industrial savings that could be developed. The water use estimates are taken directly from meter information on site.

Based on the projected size of the milk drying facility, the maximum anticipated effluent supply is 790,000 gallons per day. The quantity to meet the irrigation needs of the properties described in *Table 4* is 380,465 gallons per day.

Need for Assistance and Urgency

The City of Garden City has ample opportunities for water savings by converting areas that are geographically concentrated with large irrigation consumption amounts. Assistance with this project will assist the City with determining a long term plan for water reuse that is most effective. Because the project involves the offset of non-revenue water use, assistance is needed to ensure that any long term investments are well founded and justify the necessary revenue generating adjustments to move forward. By moving forward with this pilot project at Clint Lightner Field we can accelerate the gathering of information and dedicate resources to the other elements of a comprehensive effluent reuse program with minimal delays.

The State of Kansas Water Vision process has encouraged entities that consume water to find methods for water conservation. It is urgent that the City of Garden City develop a plan to implement effluent water reuse as a part of the overall water reduction plan and also to maximize the investment the City has already made to secure the effluent resource.

Contact Information

Fred T. Jones, III
Water Resource Manager
City of Garden City, KS
301 N. 8th St.
Garden City, KS 67846

Office: 620-276-1291

Email: fred.jones@gardencityks.us

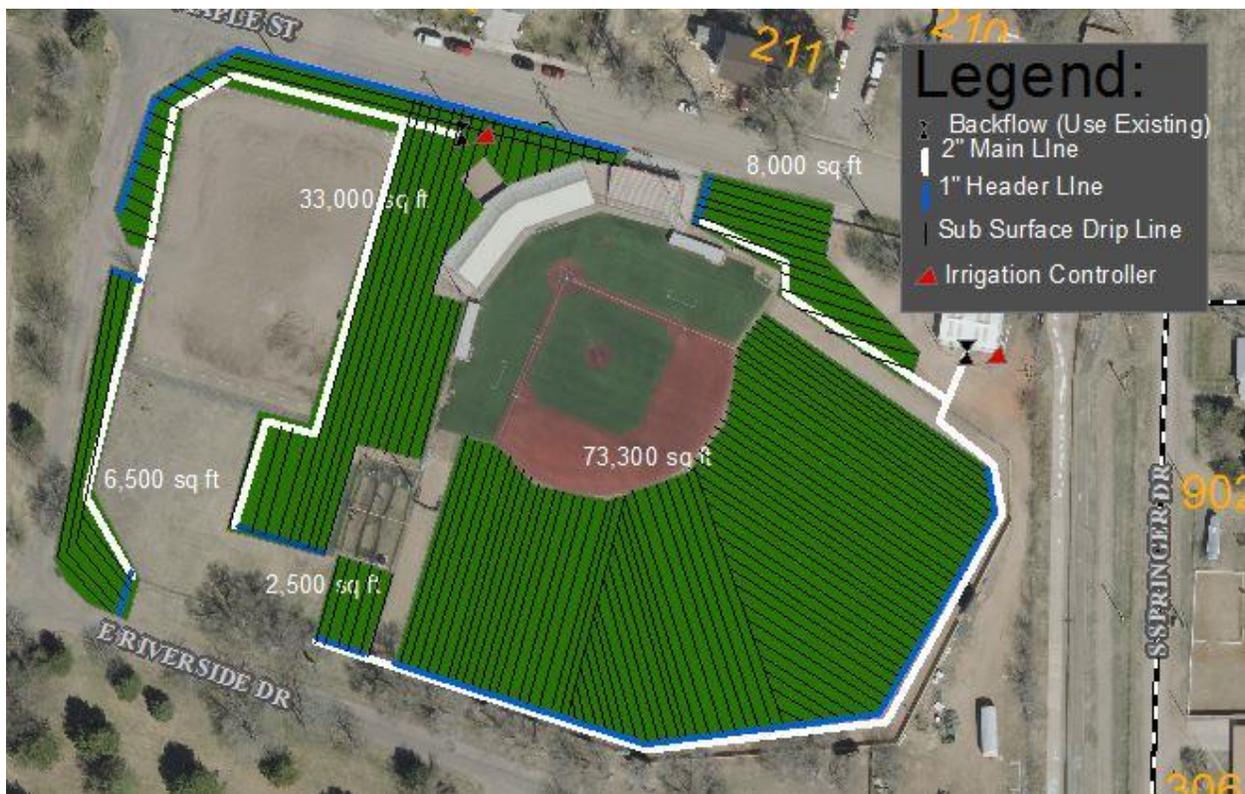
Web: www.Garden-City.org

Engineering Design and Drawings

Scope of Work for installation of Subsurface Irrigation System

- Trenching to install 1,000' of main line from metered service point.
- Trenching to install 2,000' of distribution header lines. The header lines will be attached to the drip line to ensure even water distribution through the network of subsurface drip line.
- Installation of two smart flow meters that will detect zone disturbances and shut water down in the event of a failure or leak.
- Installation of 123,000' of drip line on 12" centers throughout the project area. Installation spacing is dictated by sandy soil type due to proximity to the Arkansas River. The recommended depth for sub surface irrigation is six inches. This allows for proper cultivation practices
- Installation of Subsurface drip irrigation will include:
 - Outfield of Clint Lightner Field
 - Surrounding common grass areas and plant beds
- Notes:
 - The playing surface on the infield is artificial turf.
 - The project will include reuse of the existing 2" backflow valves from the current irrigation system for source protection.
 - We will also use our current two inch main lines to supply the new system.
 - Proposed installation estimates 50% savings as compared to top surface application.

The City employs a Professional Engineer on staff and that office has been involved in the work related to maintenance and improvement of public facilities including Clint Lightner Field.



Construction, Cost Estimate, and Schedule

In preparation for this Proposal City staff has consulted with two different contractors that specialize in subsurface irrigation systems regarding the scope of work. An estimate from both entities reveals a comparable price that was used to develop the cost estimates.

Table 5. Construction Cost Estimate

CITY OF GARDEN CITY, KANSAS - SUBSURFACE IRRIGATION PROJECT							
	Quantity	Unit	Description	Extended Cost	City Funds	Grant Funds	
Personnel Costs							
Superintendent	40 hours	\$ 40.00	Laborer + Benefits	\$ 1,600.00	\$ 1,600.00	\$ -	
Lead Worker	200 Hours	\$ 27.00	Laborer + Benefits	\$ 5,400.00	\$ 5,400.00	\$ -	
Laborers	80 hours	\$ 22.00	Laborer + Benefits	\$ 1,760.00	\$ 1,760.00	\$ -	
Administrative Assitant	20 hours	\$ 26.00	Laborer + Benefits	\$ 520.00	\$ 520.00	\$ -	
Contractural Services							
Install of Sub Surface Irrigation piping including labor	123,000 sq ft	\$1.50/sq ft	Parts and Labor	\$ 184,500.00	\$ 92,250.00	\$ 92,250.00	
Equipment (Description and Hourly Rate)							
Bobcat Skid Loader	20 hours	\$ 25.00	Remove plants and install mulch	\$ 500.00	\$ 500.00	\$ -	
Stump Grinder	2 days rental	\$ 125.00	Remove Tree Stumps	\$ 250.00	\$ 250.00	\$ -	
Hydroseeder	16 hours	\$ 25.00	Seed Bermudagrass	\$ 400.00	\$ 400.00	\$ -	
Dump Trucks	16 hours	\$ 25.00	Removal of Old Landscaping	\$ 400.00	\$ 400.00	\$ -	
Pickups	20 hours	\$ 25.00	Transportation for Parts	\$ 500.00	\$ 500.00	\$ -	
Material and Supplies							
Steel Edging	650 ft	\$ 1.70	Plant Bed Edging	\$ 1,105.00	\$ 1,105.00	\$ -	
Mulch	70 tons	\$ 32.86	Mulch for Beds	\$ 2,300.00	\$ 2,300.00	\$ -	
Hydromulch Bales	50 bales	\$ 30.00	Erosion Control for seeding	\$ 1,500.00	\$ 1,500.00	\$ -	
Bermudagrass Seed	100 lbs	\$ 16.00	Grass Seed	\$ 1,600.00	\$ 1,600.00	\$ -	
Plant Material	80 plants	\$ 50.00	Small Shrubs and Trees	\$ 4,000.00	\$ 4,000.00	\$ -	
Environmental Costs							
Not Applicable							
Travel Costs							
Not Applicable							
Contingencies							
5% Contingency for Contractural Services	0.05	\$ 184,500.00		\$ 9,225.00	\$ 9,225.00		
Other							
Not Applicable							
				TOTAL: \$ 215,560.00	\$ 123,310.00	\$ 92,250.00	

The construction schedule for the installation of the system is as follows:

Table 6. Construction Schedule

Construction Schedule Proposed Start Date (10/10/17)	1 st Week	2 nd Week	3 rd Week	4 th Week	5 th Week	6 th Week	7 th Week	8 th Week	9 th Week
Bids									
Notice to Proceed / Pre-Con									
Trenching									
System Installation									
Connection to Water Supply									
Controller Install									
Testing									
Turf Repair*									
Construction Completion									
Install of Plant Materials*									
Monitoring									

*Plant material such as shrubs or turf grass that requires repair or instillation will be conducted by the City of Garden City Parks Department.

Water Conservation Benefits

The project will provide a conservation benefit by reducing the amount of potable water by 50%. If the project evaluation drives a conversion to effluent reuse the system could be completely removed from the potable water system.

Table 7. Water Conservation Quantity and Cost Benefits

	Actual Consumption (MG)	50% Reduction (MG)	Acre-Feet Saved	Production Cost @ \$1.50/1,000 gal.	Capacity Cost @ \$2,500 per Acre-Foot	% of Total Delivery Conserved
2015	1.4	.7	2.14	\$1,050.00	\$5,350.00	.03%
2014	1.4	.7	2.14	\$1,050.00	\$5,350.00	.03%
2013	2.7	1.35	4.14	\$2,025.00	\$10,350.00	.06%
2012	3.0	1.5	4.60	\$2,250.00	\$11,500.00	.05%
Total	8.6	4.3				

Table 8. Water Deliveries 2011-2015

	Water Deliveries (Acre-Feet)
Appropriation	9961
2015	5753.9
2014	5595.6
2013	6622
2012	7722.8
2011	7444.6

The water history for this facility shows that the water savings would be significant. We calculate that each acre foot of water saved is the equivalent non-irrigation usage of 65 households. Implementation of a project in the future to full effluent use would save the entire amount of water consumed at this facility.

We estimate our water cost at \$1.50 per 1,000 gallons. The water cost is calculated based on the following considerations:

- Energy cost for water production
- Costs for system operation and maintenance including staff and equipment
- System maintenance and main replacement costs
- Water treatment costs for contractual treatment services and city treatment costs
- Costs for testing and regulatory compliance

We also estimate a capacity cost savings. This is achieved by offsetting demand for potable water within the system. Additional system capacity if needed will be costly and there are many expenses in addition to the cost of water rights acquisition in order to develop a well that meets public water supply standards.

As stated before, the goal of this project is to determine the feasibility of an infrastructure installation for effluent reuse within the Finnup Park Complex. The success of this pilot project could help drive more conversion to subsurface irrigation, more use of effluent resources, and more opportunities for indirect potable recharge.

Water Savings Calculations

The City of Garden City implemented an Advanced Metering Infrastructure (AMI) in 2010. The field is fed by a 2" Sensus Omni Meter that was installed in 2008. The AMI system measures water usage on an hourly basis. The project proposal includes advanced irrigation control and flow metering. We believe that we will be able to very accurately monitor the relationship between the service meter and the flow metering to determine trends in water usage at the site.

Table 8. Consumption History – Meter #8354 (Clint Lightner Field)

	2012	2013	2014	2015
JAN	26,500	-	-	-
FEB	68,900	10,800	8,700	19,500
MAR	107,600	81,500	13,900	50,100
APR	247,700	220,900	178,600	106,200
MAY	510,100	299,500	292,400	29,000
JUN	534,100	429,900	364,900	253,300
JUL	718,500	405,100	247,000	319,000
AUG	490,200	592,500	217,300	158,800
SEP	342,100	421,800	87,000	493,700
OCT	300	254,900	34,900	-
NOV	-	23,500	-	-
DEC	100	100	-	-
TOTAL	3,046,100	2,740,500	1,444,700	1,429,600
Acre-Feet	9.34	8.41	4.43	4.38

Environmental Impacts

The proposed project will reduce diversions from potable water supplies and if the proposal drives a conversion to effluent reuse there is potential to completely remove this facility and other similar fields in the Finnup Park complex from potable water diversions. There is also potential benefit from customer water quality by reducing the need pump less desirable sources of water such as wells that draw from the Dakota layer of the aquifer. We also see a benefit to show developers and homeowners the benefits of subsurface irrigation. Increased knowledge of the practice could entice more private individuals to consider subsurface, xeriscape, or other water saving irrigation methods.

The project will not have an impact on stream flows or in stream water temperatures. We do not anticipate any impact to threatened or endangered species, as the scope of this project is based on groundwater consumption.

Integration with Bureau of Reclamation Objectives

The proposal presented here aligns with the Bureau's objectives because it is a tangible exercise in determining the issues related to operating and maintaining a subsurface irrigation system. The project also includes addition of automation components including Smart Flow Meters and Smart Controllers with evapotranspiration controlled irrigation. The addition of this control system will enhance existing AMI infrastructure that the City has already invested in and established.

We also anticipate that City staff can use this opportunity to understand what kind of maintenance activities and troubleshooting skills will be required for a large scale implementation of subsurface irrigation. The lessons learned from this pilot will impact our estimation of future project costs and staffing needs. Information will also be gathered to develop an effective preventative maintenance program and water loss prevention program.

Financial Commitment and Table

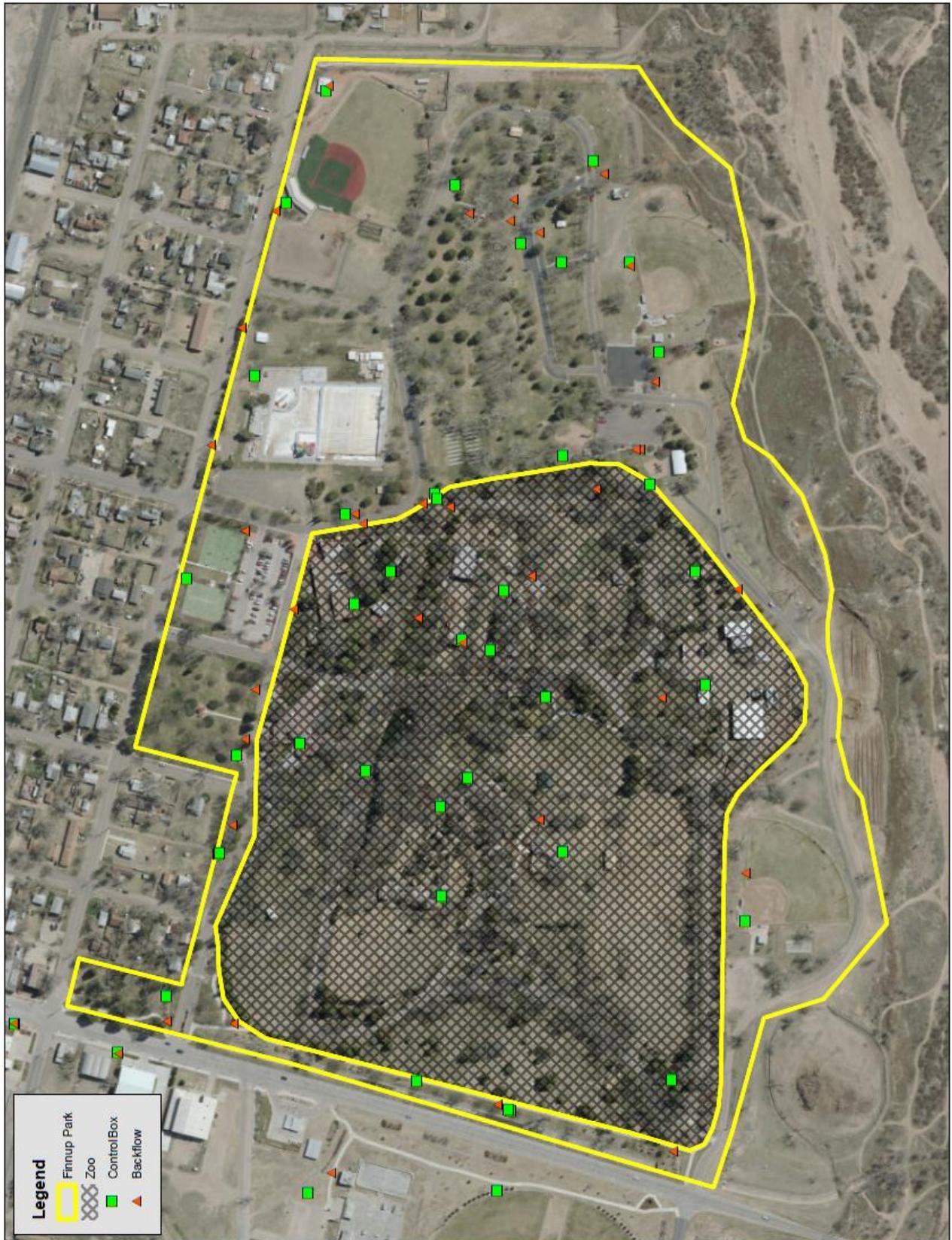
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Contingencies							
	5% Contingency for Contractural Services	0.05	\$ 184,500.00		\$ 9,225.00	\$ 9,225.00	
Other							
	Not Applicable						
					TOTAL: \$ 215,560.00	\$ 123,310.00	\$ 92,250.00

Organizational DUNS

City of Garden City: 07334220

ATTACHMENTS

Attachment 2: Layout of Current Irrigation Systems in Finnup Park



**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
ASSISTANCE AGREEMENT**

1A. AGREEMENT NUMBER R15AP00145		1B. MOD NUMBER 000		2. TYPE OF AGREEMENT <input checked="" type="checkbox"/> GRANT <input type="checkbox"/> COOPERATIVE AGREEMENT		3. CLASS OF RECIPIENT City Government									
4. ISSUING OFFICE Bureau of Reclamation Great Plains Region P.O. Box 36900 Billings, MT 59107-6900				5. RECIPIENT City of Garden City 301 N. 8 th St. Garden City, KS 67846 Ph. (620) 276-1291				EIN #:		486009982		County:		Finney	
								DUNS #:		073324220		Congress. Dist:		01	
				6. GRANTS MANAGEMENT SPECIALIST Lindsey Nafts Bureau of Reclamation P.O. Box 36900 Billings, MT 59107-6900 Ph. (406) 247-7684 Email. lnafts@usbr.gov				7. RECIPIENT PROJECT MANAGER Fred Jones City of Garden City 301 N. 8 th St. Garden City, KS 67846 Ph. (620) 276-1291 Email. fredjones@gardencityks.us							
8. GRANTS OFFICER TECHNICAL REPRESENTATIVE Thomas Michalewicz, Bureau of Reclamation, Oklahoma –Texas Area Office 5316 Highway 290 West, Suite 110 Austin, TX 787.5 Ph. (512) 899-4166 Email. tmichalewicz@usbr.gov				9A. INITIAL AGREEMENT EFFECTIVE DATE: See Block 17				9B. MODIFICATION EFFECTIVE DATE: NA							
				10. COMPLETION DATE September 30, 2018											
11A. PROGRAM STATUTORY AUTHORITY Section 2504(a) of PL 111-11, as amended by PL 113-235										11B. CFDA Number 15.530					
12. FUNDING INFORMATION		<u>RECIPIENT/OTHER</u>		<u>RECLAMATION</u>		13. REQUISITION NUMBER 20075374									
Total Estimated Amount of Agreement		\$131,180.77		\$92,250.00		14A. ACCOUNTING AND APPROPRIATION DATA 16XR0680A1 RX.3076OTA1.0010000 RR06450000									
This Obligation		\$131,180.77		\$92,250.00											
Previous Obligation		\$0.00		\$0.00											
Total Obligation		\$131,180.77		\$92,250.00											
Cost-Share %		59%		41%											
14B. TREASURY ACCOUNT FUNDING SYMBOL 14X0680															
15. PROJECT TITLE Lightner Field Subsurface Irrigation for Effluent Reuse Demo Water Conservation Project															
16a. Acceptance of this Assistance Agreement in accordance with the terms and conditions contained herein is hereby made on behalf of the above-named recipient BY: _____ DATE: _____						17a. Award of this Assistance Agreement in accordance with the terms and conditions contained herein is hereby made on behalf of the United States of America, Department of the Interior, Bureau of Reclamation BY: _____ DATE: _____									
16b. NAME, TITLE, AND TELEPHONE NUMBER OF SIGNER <input type="checkbox"/> Additional signatures are attached						17b. NAME OF GRANTS OFFICER Lindsey Nafts, Grants Officer Ph. (406) 247-7684									

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**Grant Agreement
Between
Bureau of Reclamation
And
City of Garden City, Kansas
For**

Lightner Field Subsurface Irrigation for Effluent Reuse Demo Water Conservation Project

I. OVERVIEW AND SCHEDULE

1. AUTHORITY

This Grant Agreement (Agreement) is entered into between the United States of America, acting through the Department of the Interior, Bureau of Reclamation, hereinafter referred to as "Reclamation," and the City of Garden City KS, hereinafter referred to as the "Recipient" or "Grantee," pursuant to Public Law 111-11, Section 9504(a), as amended by Public Law 113-235. The following section, provided in full text, authorizes Reclamation to award this financial assistance agreement:

SEC. 9504. WATER MANAGEMENT IMPROVEMENT.

(a) Authorization of grants and Cooperative Agreements-

- (1) **AUTHORITY OF SECRETARY-** The Secretary may provide any grant to, or enter into agreement with, any eligible applicant to assist the eligible applicant in planning, designing, or constructing any improvement-
- (A) to conserve water;
 - (B) to increase water use efficiency;
 - (C) to facilitate water markets;
 - (D) to enhance water management, including increasing the use of renewable energy in the management and delivery of water;
 - (E) to accelerate the adoption and use of advanced water treatment technologies to increase water supply;
 - (F) to prevent the decline of species that the United States Fish and Wildlife Service and National Marine Fisheries Service have proposed for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (or candidate species that are being considered by those agencies for such listing but are not yet the subject of proposed rule);
 - (G) to accelerate the recovery of threatened species, endangered species, and designated critical habitats that are adversely affected by federal reclamation projects or are subject to recovery plan or conservation plan under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) under which the commissioner of Reclamation has implementation responsibilities; or
 - (H) to carry out any other activity-
 - (i) to address any climate-related impact to the water supply of the United States that increases ecological resiliency to the impacts of climate change; or
 - (ii) to prevent any water-related crisis or conflict at any watershed that has a nexus to a federal reclamation project located in a service area.

2. PUBLIC PURPOSE OF SUPPORT OR STIMULATION

The purpose of this agreement is to provide a mechanism for Reclamation to provide technical and financial assistance through the Water Conservation Field Services Program (WCFSP) to the Recipient for implementation of economically feasible measures identified in the Water Management and Conservation Plan (WMCP). Implementation of responsible water conservation measures will improve the Recipient's operations, management, and use of water. The Recipient, water users, and the public will benefit from funding provided under this agreement by more efficient use of the water resource achieved through implementation of the Recipient's WMCP.

3. BACKGROUND AND OBJECTIVES

3.1 Water Conservation Field Services Program (WCFSP)

Reclamation established the WCFSP in 1996 to implement the water conservation provisions under Section 210 of the Reclamation Reform Act (RRA). The WCFSP provides assistance to water users in the following four areas of emphasis: (1) assistance in developing effective water management and conservation plans; (2) promotion and support of water education and training; (3) demonstration of conservation technologies; and (4) encouragement and promotion of implementation of water efficiency measures.

3.2 Project Background

The City of Garden City, Kansas is the county-seat of Finney County Kansas. The City has a population of approximately 31,000 and serves as a regional hub for services, shopping, and healthcare services. Historically the area has been home to numerous animal feeding and processing operations. The City has experienced major growth in manufacturing and industry over the past decade specifically in the energy and transportation sector including a 100 MGY ethanol plant and large facility that stages wind turbines and towers for rail to truck transfer.

Currently Dairy Farmers of America (DFA) are constructing a large milk drying facility to create milk powder for domestic and export use in the food industry. The construction of this facility is driving efforts to find effective and beneficial effluent re-use methods. As part of the development agreement the City has purchased exclusive access to the effluent water produced by the milk drying process.

The City water delivery system consists of 164 miles of water main serving approximately 8,100 service connections. Total water delivery in 2015 was 5,753.9 acre feet.

The installation of subsurface irrigation would allow a safe conversion to an effluent water source. If the pilot drives an effluent water conversion, savings would be amplified because the effluent stream is not generated by city water sources. In this case, effluent produced by the milk drying process comes from milk produced in regional dairies. In essence use of this effluent stream could be construed as an importation of water into the community.

A successful conversion could set the stage to move forward with a more robust conversion away from potable water resources. This would include public and private entities that are located near the effluent distribution infrastructure.

3.3 Objectives and Purpose

The City has committed to taking a guaranteed quantity of water from the DFA on a daily basis starting in the second quarter of 2018. As a result the City will be developing a Water Reuse Utility to distribute the water for beneficial use. The City has determined that it has three options, or a combination thereof, for the use of this effluent:

- Sell the effluent for Industrial, Commercial, or Agricultural Reuse
- Transport the effluent via pipeline to a location on the west side of Garden City where it can be used for a constructed wetlands and indirect potable recharge that would benefit three source wells that are used to supply the reverse osmosis water treatment facility that serves the City. This concept was developed in the late 1990's with the Army Corps of Engineers-Tulsa Office.
- Construct infrastructure from any pipeline to provide water to facilities for outdoor irrigation on park and recreation facilities, thereby directly offsetting potable water use. Excess water to be diverted for indirect potable recharge.

The project proposed in this application will gauge the feasibility of a large scale conversion of irrigated public grounds to a new source of treated effluent water that is reserved by the City in the 2nd quarter of 2018. This project is a demonstration activity that will incorporate technology in a new setting with the intent of promoting wider adoption in the public and private sectors.

The objective is the installation of a subsurface drip irrigation system at Clint Lightner Field, our main competition baseball field. This system will be coupled with a smart controller system to allow better flow monitoring, leak detection, and variable operation based on evapotranspiration.

Our strategy in converting limiting the scope of the conversion to drip irrigation is to measure the water savings impact and identify maintenance and design issues to ensure that a final conversion to an effluent resource would be implemented with the best result and with a full understanding of the water savings impact.

The initial irrigation conversion in this proposal would use potable water supply initially. We have calculated the potential savings to the potable water system. The project has three main goals:

- Develop an alternative source of irrigation water to allow for the survival of landscape trees and turf for the City's Sports Complex during periods of drought and water restrictions.
- Increase the efficiency of the irrigation systems by installing smart irrigation controllers which utilize soil moisture sensors to start and stop irrigation cycles and utilize flow meters to continuously monitor the system for excess flow.
- Reduce the quantity of potable municipal water used for irrigation purposes by switching the irrigation systems over to pond water for most of the year.

Reclamation's funds will be utilized to cost share with the Recipient funds to purchase and construct the necessary facilities to provide subsurface irrigation to Lightner Field, and also to purchase and install smart irrigation controllers, and other related automated components.

3.4 Benefits of the Proposed Project

The installation of subsurface irrigation would allow a safe conversion to an effluent water source. If the pilot drives an effluent water conversion, savings would be amplified because the effluent stream is not generated by city water sources. In this case, effluent produced by the milk drying process comes from milk produced in regional dairies. In essence use of this effluent stream could be construed as an importation of water into the community.

A successful pilot conversion could set the stage to move forward with a more robust conversion away from potable water resources. This would include public and private entities that are located near the effluent distribution infrastructure.

The project is expected to save 213 acre feet of water per year.

4. PERIOD OF PERFORMANCE AND FUNDS AVAILABILITY

This Agreement becomes effective on the date shown in Block 17a of Form 7-2279, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement. The Agreement shall remain in effect until the date shown in Block 10 of Form 7-2279, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement. The period of performance for this Agreement may only be modified through written modification of the Agreement by a Reclamation Grants Officer (GO).

No legal liability on the part of the Government for any payment may arise until funds are made available, in writing, to the Recipient by the Grants Officer. The total estimated amount of federal funding for this agreement is \$92,250.00 all of which is available upon execution of award as indicated by "this obligation" within Block 12 of Form 7-2279, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement. Subject to the availability of Congressional appropriations, subsequent funds will be made available for payment through written modifications to this agreement by a Reclamation Grants Officer.

5. SCOPE OF WORK AND MILESTONES

5.1 Technical Proposal Description

The installation of a subsurface irrigation system (drip) for Clint Lightner Field to replace the existing surface irrigation allowing for a conversion to effluent water source.

5.2 Scope of Work and Work Plan

The Recipient will have all proposed activities and installations completed no later than 24 months following the execution of an agreement for funding.

Scope of Work Items:

- Install 1,000' of main line from metered service point.
- Install 2,000' of distribution header lines. The header lines will be attached to the drip line to ensure even water distribution through the network of subsurface drip line.

- Installation of two smart flow meters that will detect zone disturbances and shut water down in the event of a failure or leak.
- Installation of 123,000' of drip line on 12" centers throughout the project area. Installation spacing is dictated by sandy soil type due to proximity to the Arkansas River. The recommended depth for sub-surface irrigation is six inches. This allows for proper cultivation practices.

Area of Installation of Subsurface drip irrigation will include:

- Outfield of Clint Lightner Field
- Surrounding common grass areas and plant beds
- The playing surface on the infield is artificial turf.

5.3 Activity Map



Figure 1. Site Map of Proposed Project

5.4 Milestones

The Recipient will have all proposed tasks/phases completed no later than 24 months following the execution of a financial assistance agreement for funding of the proposal. The completion of all tasks and phases is anticipated to be September 30, 2018.

Listed below are the major tasks and project milestones by semi-annual period.

Semi-annual Reporting Period from October 1, 2016 – March 31, 2017

- Project Budgeting and Preparation

Semi-annual Reporting Period from April 1, 2017 – September 30, 2017

- Bid Packet Preparation

Semi-annual Reporting Period from October 1, 2017 – March 31, 2018

- Bid Letting
- Notice to Proceed
- Preparation of project area, removal of plant materials
- Pre-Construction
- Trenching
- System Installation
- Connection to Water Supply
 - Controller Installation
 - Testing

Semi-annual Reporting Period from April 1, 2018 – September 30, 2018

- Turf Repair
- Completion of irrigation system
- Installation of Plant Materials
- Monitoring (ongoing)

6. RESPONSIBILITY OF THE PARTIES

6.1 Recipient Responsibilities

6.1.1 The Recipient shall carry out the Scope of Work (SOW) in accordance with the terms and conditions stated herein. The Recipient shall adhere to Federal, state, and local laws, regulations, and codes, as applicable, and shall obtain all required approvals and permits. If the SOW contains construction activities, the Recipient is responsible for construction inspection, oversight, and acceptance. If applicable, the Recipient shall also coordinate and obtain approvals from site owners and operators.

6.1.2. Recipient Deliverables

1. Contract for Bid of installation of drip tape.
2. Report on the water savings and additional project benefits achieved with the retrofit system.

6.2 Reclamation Responsibilities

6.2.1 Reclamation will monitor and provide Federal oversight of activities performed under this Agreement. Monitoring and oversight includes review and approval of financial status and performance reports, payment requests, and any other deliverables identified as part of the SOW. Additional monitoring activities may include site visits, conference calls, and other on-site and off-site monitoring activities. At the Recipient's request, Reclamation may also provide technical assistance to the Recipient in support of the SOW and objectives of this Agreement.

6.2.2 All NEPA and Cultural Resource Compliance will be accomplished before the Recipient (or contractor of the Recipient) is allowed to begin any ground disturbing activities.

7. BUDGET

7.1 Budget Estimate. The following is the estimated budget for this Agreement. As Federal financial assistance agreements are cost-reimbursable, the budget provided is for estimation purposes only. Final costs incurred under the budget categories listed may be either higher or lower than the estimated costs. All costs incurred by the Recipient under this agreement must be in accordance with any pre-award clarifications conducted between the Recipient and Reclamation, as well as with the terms and conditions of this agreement. Final determination of the allowability, allocability, or reasonableness of costs incurred under this agreement is the responsibility of the Grants Officer. Recipients are encouraged to direct any questions regarding allowability, allocability or reasonableness of costs to the Grants Officer for review prior to incurrence of the costs in question.

BUDGET ITEM DESCRIPTION	COMPUTATION		TOTAL COST
	PRICE/UNIT	QUANTITY	
SALARIES AND WAGES			
Superintendent	\$ 30.05 ea.	40.00	\$ 1,202.00
Lead Worker	\$ 18.73 ea.	200.00	\$ 3,746.00
Laborers	\$ 14.00 ea.	80.00	\$ 1,120.00
Administrative Assistant	\$ 16.64 ea.	20.00	\$ 332.80
Subtotal			\$ 6,400.80
FRINGE BENEFITS			
FICA & Retirement	19%	6,400.80	\$ 1,216.06
Health Insurance (\$/hr)	\$ 4.73 ea.	340.00	\$ 1,608.20
Subtotal			\$ 2,824.26
EQUIPMENT			
Bobcat Skid loader (S650 78" Bucket)-L40ME023	\$ 20.44/hr	20.00	\$ 408.80
Hydroseeder(500 Gallon Trailer Unit) - L15BW001	\$ 15.36/hr	16.00	\$ 245.76
Dump Trucks - TX50XX032	\$ 44.86/hr	25.00	\$ 1,121.50
Pickup (1/2 Ton) - T50XX001	\$ 11.01/hr	25.00	\$ 275.25
Subtotal			\$2,051.31

SUPPLIES/MATERIALS			
Steel Edging	\$ 1.70/ft	650.00 ft	\$ 1,105.00
Mulch (per ton)	\$ 32.86/ton	70.00 tons	\$ 2,300.20
Hydromulch Bales	\$ 30.00 ea.	50.00	\$ 1,500.00
Bermudagrass Seed	\$ 16.00/lb	100.00 lbs	\$ 1,600.00
Plant Material	\$ 50.00 ea.	80.00	\$ 4,000.00
Smart Controllers	\$ 6,000.00 ea.	2.00	\$ 12,000.00
Flow Meters	\$ 1,000.00 ea.	2.00	\$ 2,000.00
2" PVC pipe (SCH 80 per ft.)	\$ 1.45 ea.	2,000.00	\$ 2,900.00
Subtotal			\$ 27,405.20
CONTRACTUAL/CONSTRUCTION			
Installation of sub surface Irrigation Piping	\$ 1.50 ea.	123,000.00	\$ 184,500.00
Subtotal			\$ 184,500.00
OTHER			
Stump Grinder (per day local rental fee)	\$ 125.00/day	2.00	\$ 250.00
Subtotal			\$ 250.00
TOTAL DIRECT COSTS			\$ 223,430.77

FUNDING SOURCES	% TOTAL PROJECT COST	TOTAL COST BY SOURCE
RECIPIENT FUNDING	58.8%	\$131,180.77
OTHER NON-FEDERAL FUNDING	-	-
RECLAMATION FUNDING	42.2%	\$92,250.00
OTHER FEDERAL FUNDING	-	-
TOTALS	100%	\$223,430.77

7.2 Cost Sharing Requirement

At least 50 % non-Federal cost-share is required for costs incurred under this Agreement. If pre-award costs are authorized, reimbursement of these costs is limited to federal cost share percentage identified in this agreement.

The Federal share of allowable costs shall not be expended in advance of the Recipient's non-Federal share. It is expected that expenditure of Federal and non-Federal funds based upon the cost share percentage above shall occur concurrently. If a bona fide need arises which requires the expenditure of Federal funds in advance of the Recipient share, then the Recipient must request written approval from the Grants Officer prior to the expenditure. Recipient's may expend their agreed upon share of costs in advance of the expenditure of Federal funds without prior written approval.

7.3 Pre-Award Incurrence of Costs

The Recipient is not authorized to incur costs prior to the award of this Agreement. Costs incurred prior to the award of this agreement are not allowable.

7.4 Allowable Costs (2 CFR Subpart E §200.400 through §200.475)

Costs incurred for the performance of this Agreement must be allowable, allocable to the project, and reasonable. The following regulations, codified within the Code of Federal Regulations (CFR), governs the allowability of costs for Federal financial assistance:

2 CFR Subpart E, “Cost Principles”

Expenditures for the performance of this Agreement must conform to the requirements within this CFR. The Recipient must maintain sufficient documentation to support these expenditures. Questions on the allowability of costs should be directed to the GO responsible for this Agreement.

The Recipient shall not incur costs or obligate funds for any purpose pertaining to operation of the program or activities beyond the expiration date stated in the Agreement. The only costs which are authorized for a period of up to 90 days following the project performance period are those strictly associated with closeout activities for preparation of the final reports.

7.5 Revision of Budget and Program Plans (2 CFR §200.308)

In accordance with 2 CFR §200.308(g) the recipient must request prior written approval for any of the following changes:

- a) A change in the approved scope of work or associated tasks, even if there is no associated budget revisions.
- b) Revisions which require additional Federal funds to complete the project.
- c) Revisions which involve specific costs for which prior written approval requirements may be imposed consistent with OMB cost principles listed in 2 CFR 200 Subpart E “Cost Principles”.

7.6 Modifications

Any changes to this Agreement shall be made by means of a written modification. Reclamation may make changes to the Agreement by means of a unilateral modification to address administrative matters, such as changes in address, no-cost time extensions, changes to Reclamation Key Personnel, or the addition of previously agreed upon funding. Additionally, a unilateral modification may be utilized by Reclamation if it should become necessary to suspend or terminate the Agreement in accordance with 2 CFR §200.338.

All other changes shall be made by means of a bilateral modification to the Agreement. No oral statement made by any person, or written statement by any person other than the GO, shall be allowed in any manner or degree to modify or otherwise effect the terms of the Agreement.

All requests for modification of the Agreement shall be made in writing, provide a full description of the reason for the request, and be sent to the attention of the GO. Any request for project extension shall be made at least 45 days prior to the expiration date of the Agreement or the expiration date of any extension period that may have been previously granted. Any determination to extend the period of performance or to provide follow-on funding for continuation of a project is solely at the discretion of Reclamation.

8. KEY PERSONNEL

8.1 Recipient's Key Personnel

The Recipient's Project Manager for this Agreement shall be:

Fred Jones
City of Garden City
Water Systems Resource Manager
106 S. 11th Street
Garden City, KS 67846
Ph. (620) 276-1291
Email. Fred.jones@gardencityks.us

8.2 Reclamation's Key Personnel

8.2.1 Grants Officer (GO):

Lindsey Nafts
Bureau of Reclamation
P.O. Box 36900
Billings, MT 59107-6900
Ph. (406) 247-7684
Email. lnafts@usbr.gov

(a) The GO is the only official with legal delegated authority to represent Reclamation. The GO's responsibilities include, but are not limited to, the following:

- (1) Formally obligate Reclamation to expend funds or change the funding level of the Agreement;
- (2) Approve through formal modification changes in the scope of work and/or budget;
- (3) Approve through formal modification any increase or decrease in the period of performance of the Agreement;

- (4) Approve through formal modification changes in any of the expressed terms, conditions, or specifications of the Agreement;
- (5) Be responsible for the overall administration, management, and other non-programmatic aspects of the Agreement including, but not limited to, interpretation of financial assistance statutes, regulations, circulars, policies, and terms of the Agreement;
- (6) Where applicable, ensures that Reclamation complies with the administrative requirements required by statutes, regulations, circulars, policies, and terms of the Agreement.

8.2.2 Grants Officer Technical Representative (GOTR):

Thomas Michalewicz
Bureau of Reclamation
Oklahoma-Texas Area Office
5316 Hwy 290 West, Suite 110
Austin, TX 78735-8931
Ph. (512) 899-4166
Email. tmichalewicz@usbr.gov

- (a) The GOTR's authority is limited to technical and programmatic aspects of the Agreement. The GOTR's responsibilities include, but are not limited to, the following:
 - (1) Assist the Recipient, as necessary, in interpreting and carrying out the scope of work in the Agreement;
 - (2) Review, and where required, approve Recipient reports and submittals as required by the Agreement;
 - (3) Where applicable, monitor the Recipient to ensure compliance with the technical requirements of the Agreement;
 - (4) Where applicable, ensure that Reclamation complies with the technical requirements of the Agreement;
- (b) The GOTR does not have the authority to and may not issue any technical assistance which:
 - (1) Constitutes an assignment of additional work outside the scope of work of the Agreement;
 - (2) In any manner causes an increase or decrease in the total estimated cost or the time required for performance; or
 - (3) Changes any of the expressed terms, conditions, or specifications of the Agreement.

8.2.3 Grants Management Specialist. The Grants Management Specialist is the primary administrative point of contact for this agreement and should be contacted regarding issues related to the day-to-day management of the agreement. Requests for approval regarding the terms and conditions of the agreement, including but not limited to modifications and prior approval, may only be granted, in writing, by a Reclamation Grants Officer. Please note that for some agreements, the Grants Officer and the Grants Management Specialist may be the same individual.

Lindsey Nafts
Grants Officer
Bureau of Reclamation
P.O. Box 36900
Billings, MT 59107-6900
Ph. (406) 247-7684
Email. lnafts@usbr.gov

9. REPORTING REQUIREMENTS AND DISTRIBUTION

9.1 Noncompliance. Failure to comply with the reporting requirements contained in this Agreement may be considered a material noncompliance with the terms and conditions of the award. Noncompliance may result in withholding of payments pending receipt of required reports, denying both the use of funds and matching credit for all or part of the cost of the activity or action not in compliance, whole or partial suspension or termination of the Agreement, recovery of funds paid under the Agreement, withholding of future awards, or other legal remedies in accordance with 2 CFR §200.338.

9.2 Financial Reports. Financial Status Reports shall be submitted by means of the SF-425 and shall be submitted according to the Report Frequency and Distribution schedule below. All financial reports shall be signed by an Authorized Certifying Official for the Recipient's organization.

9.3 Monitoring and reporting program performance (2 CFR §200.328)

(a) Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also §200.331 Requirements for pass-through entities.

(b) Non-construction performance reports. The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB Web site).

(1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the Federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-Federal entity, the Federal agency may extend the due date for any performance report.

(2) The non-Federal entity must submit performance reports using OMB-approved governmentwide standard information collections when providing performance information. As appropriate in accordance with above mentioned information collections, these reports will contain, for each Federal award, brief information on the following unless other collections are approved by OMB:

(i) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the Federal awarding agency program, the Federal awarding agency should include this as a performance reporting requirement.

(ii) The reasons why established goals were not met, if appropriate.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(c) Construction performance reports. For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for construction. The Federal awarding agency may require additional performance reports only when considered necessary.

(d) Significant developments. Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

Reclamation requires Performance reporting for all financial assistance awards, both Construction and non-Construction. Performance reports for Construction agreements shall meet the same minimum requirements outlined in 2 CFR §200.328(b)(2) above.

9.4 Report Frequency and Distribution. The following table sets forth the reporting requirements for this Agreement. Please note the first report due date listed for each type of report.

Required Reports	Interim Reports	Final Report
Performance Report		
Format	No specific format required. See content requirements within Section 9.3 (2 CFR §200.328) above.	Summary of activities completed during the entire period of performance is required. See content requirements within Section 9.3 (2 CFR §200.328) above.
Reporting Frequency	Semi-annual	Final Report due upon completion of Agreement's period of performance
Reporting Period	October 1 through March 31 and April 1 through September 30.	Entire period of performance
Due Date*	Within 30 days after the end of the Reporting Period.	Within 90 days after the completion date of the Agreement
First Report Due Date	The first performance report is due for reporting period ending March 31, 2017	N/A
Submit to:	Grants Management Specialist	Grants Management Specialist
Federal Financial Report		
Format	SF-425 (all sections must be completed)	SF-425(all sections must be completed)
Reporting Frequency	Semi-Annual	Final Report due upon completion of Agreement's period of performance
Reporting Period	October 1 through March 31 and April 1 through September 30.	Entire period of performance
Due Date*	Within 30 days after the end of the Reporting Period.	Within 90 days after the completion date of the Agreement
First Report Due Date	The first Federal financial report is due for reporting period ending March 31, 2017.	N/A
Submit to:	Grants Management Specialist	Grants Management Specialist

* If the completion date is prior to the end of the next reporting period, then no interim report is due for that period. Instead, the Recipient is required only to submit the final financial and performance reports, which will cover the entire period of performance including the last abbreviated reporting period.

10. REGULATORY COMPLIANCE

The Recipient agrees to comply or assist Reclamation with all regulatory compliance requirements and all applicable state, Federal, and local environmental and cultural and paleontological resource protection laws and regulations as applicable to this project. These may include, but are not limited to, the National Environmental Policy Act (NEPA), including the Council on Environmental Quality and Department of the Interior regulations implementing NEPA, the Clean Water Act, the Endangered Species Act, consultation with potentially affected Tribes, and consultation with the State Historic Preservation Office.

Certain environmental and other associated compliance are Federal responsibilities, and will occur as appropriate. Reclamation will identify the need for and will complete any appropriate environmental compliance requirements, as identified above, pertinent to Reclamation pursuant to activities specific to this assisted activity. Environmental and other associated compliance shall be completed prior to the start of this project. As such, notwithstanding any other provision of this Agreement, Reclamation shall not provide any funds to the Recipient for Agreement purposes, and the Recipient shall not begin implementation of the assisted activity described in this Agreement, until Reclamation provides written notice to the Recipient that all applicable environmental and regulatory compliance analyses and clearances have been completed and that the Recipient may begin implementation of the assisted activity. If the Recipient begins project activities that require environmental and other regulatory compliance approval, such as construction activities, prior to receipt of written notice from Reclamation that all such clearances have been obtained, then Reclamation reserves the right to unilaterally terminate this agreement for cause.

11. AGRICULTURAL OPERATIONS

The Recipient shall not use any associated water savings to increase the total irrigated acreage of the Recipient or otherwise increase the consumptive use of water in the operation of the Recipient, as determined pursuant to the law of the State in which the operation of Recipient is located.

12. TITLE TO IMPROVEMENTS

If the activities funded under this Agreement result in an infrastructure improvement to a federally owned facility, the Federal Government shall continue to hold title to the facility and improvements to the facility. An infrastructure improvement to a Federal facility is any segment of a project that results in a modification to a portion of a Federal facility that is integral to the existing operations of that facility.

The Recipient shall hold title to improvements that are not integral to the existing operations of the facility.

13. OPERATION AND MAINTENANCE COSTS

The non-Federal share of the cost of operating and maintaining any infrastructure improvement funded through this Agreement shall be 100 percent.

14. LIABILITY

- (a) **IN GENERAL.**—Except as provided under chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”), the United States shall not be liable for monetary damages of any kind for any injury arising out of an act, omission, or occurrence that arises in relation to any facility created or improved under this Agreement, the title of which is not held by the United States.
- (b) **TORT CLAIMS ACT.**—Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”).

II. RECLAMATION STANDARD TERMS AND CONDITIONS

1. REGULATIONS

The regulations at 2 CFR Subtitle A, Chapter II, Part 200 “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”, are hereby incorporated by reference as though set forth in full text. Failure of a Recipient to comply with any applicable regulation or circular may be the basis for withholding payments for proper charges made by the Recipient and/or for termination of support.

2. PAYMENT

2.1 Payment. (2 CFR §200.305)

(a) For states, payments are governed by Treasury-State CMIA agreements and default procedures codified at 31 CFR Part 205 “Rules and Procedures for Efficient Federal-State Funds Transfers” and TFM 4A-2000 Overall Disbursing Rules for All Federal Agencies.

(b) For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the non-Federal entity whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. See also §200.302 Financial management paragraph (b)(6). Except as noted elsewhere in this part, Federal agencies must require recipients to use only OMB-approved standard governmentwide information collection requests to request payment.

(1) The non-Federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a non-Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-Federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-Federal entity must make timely payment to contractors in accordance with the contract provisions.

(2) Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all Federal awards made by the Federal awarding agency to the recipient.

(i) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer and must comply with applicable guidance in 31 CFR part 208.

(ii) Non-Federal entities must be authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as they like when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1693-1693r).

(3) Reimbursement is the preferred method when the requirements in paragraph (b) cannot be met, when the Federal awarding agency sets a specific condition per §200.207 Specific conditions, or when the non-Federal entity requests payment by reimbursement. This method may be used on any Federal award for construction, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal award constitutes a minor portion of the project. When the reimbursement method is used, the Federal awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the Federal awarding agency or pass-through entity reasonably believes the request to be improper.

(4) If the non-Federal entity cannot meet the criteria for advance payments and the Federal awarding agency or pass-through entity has determined that reimbursement is not feasible because the non-Federal entity lacks sufficient working capital, the Federal awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the Federal awarding agency or pass-through entity must advance cash payments to the non-Federal entity to cover its estimated disbursement needs for an initial period generally geared to the non-Federal entity's disbursing cycle. Thereafter, the Federal awarding agency or pass-through entity must reimburse the non-Federal entity for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity provide timely advance payments to any subrecipients in order to meet the subrecipient's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the subrecipient to meet the subrecipient's actual cash disbursements.

(5) Use of resources before requesting cash advance payments. To the extent available, the non-Federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.

(6) Unless otherwise required by Federal statutes, payments for allowable costs by non-Federal entities must not be withheld at any time during the period of performance unless the conditions of §§200.207 Specific conditions, Subpart D—Post Federal Award Requirements of this part, 200.338 Remedies for Noncompliance, or one or more of the following applies:

(i) The non-Federal entity has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the Federal award.

(ii) The non-Federal entity is delinquent in a debt to the United States as defined in OMB Guidance A-129, “Policies for Federal Credit Programs and Non-Tax Receivables.” Under such conditions, the Federal awarding agency or pass-through entity may, upon reasonable notice, inform the non-Federal entity that payments must not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

(iii) A payment withheld for failure to comply with Federal award conditions, but without suspension of the Federal award, must be released to the non-Federal entity upon subsequent compliance. When a Federal award is suspended, payment adjustments will be made in accordance with §200.342 Effects of suspension and termination.

(iv) A payment must not be made to a non-Federal entity for amounts that are withheld by the non-Federal entity from payment to contractors to assure satisfactory completion of work. A payment must be made when the non-Federal entity actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(7) Standards governing the use of banks and other institutions as depositories of advance payments under Federal awards are as follows.

(i) The Federal awarding agency and pass-through entity must not require separate depository accounts for funds provided to a non-Federal entity or establish any eligibility requirements for depositories for funds provided to the non-Federal entity. However, the non-Federal entity must be able to account for the receipt, obligation and expenditure of funds.

(ii) Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.

(8) The non-Federal entity must maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply.

- (i) The non-Federal entity receives less than \$120,000 in Federal awards per year.
- (ii) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
- (iii) 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.
- (iv) A foreign government or banking system prohibits or precludes interest bearing accounts.

(9) Interest earned amounts up to \$500 per year may be retained by the non-Federal entity for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Remittances must include pertinent information of the payee and nature of payment in the memo area (often referred to as “addenda records” by Financial Institutions) as that will assist in the timely posting of interest earned on federal funds. Pertinent details include the Payee Account Number (PAN) if the payment originated from PMS, or Agency information if the payment originated from ASAP, NSF or another federal agency payment system. The remittance must be submitted as follows:

(i) For ACH Returns:

Routing Number: 051036706

Account number: 303000

Bank Name and Location: Credit Gateway—ACH Receiver St. Paul, MN

(ii) For Fedwire Returns*:

Routing Number: 021030004

Account number: 75010501

Bank Name and Location: Federal Reserve Bank Treas NYC/Funds Transfer Division New York, NY

(* Please note organization initiating payment is likely to incur a charge from your Financial Institution for this type of payment)

(iii) For International ACH Returns:
Beneficiary Account: Federal Reserve Bank of New York/ITS (FRBNY/ITS)
Bank: Citibank N.A. (New York)
Swift Code: CITIUS33
Account Number: 36838868
Bank Address: 388 Greenwich Street, New York, NY 10013 USA
Payment Details (Line 70): Agency
Name (abbreviated when possible) and ALC Agency POC: Michelle Haney,
(301) 492-5065

(iv) For recipients that do not have electronic remittance capability, please make check** payable to: "The Department of Health and Human Services."
Mail Check to Treasury approved lockbox:
HHS Program Support Center, P.O. Box 530231, Atlanta, GA 30353-0231
(** Please allow 4-6 weeks for processing of a payment by check to be applied to the appropriate PMS account)

(v) Any additional information/instructions may be found on the PMS Web site at <http://www.dpm.psc.gov/>.

2.2 Payment Method

Recipients must utilize the Department of Treasury Automated Standard Application for Payments (ASAP) payment system to request advance or reimbursement payments. ASAP is a Recipient-initiated payment and information system designed to provide a single point of contact for the request and delivery of Federal funds. ASAP is the only allowable method for request and receipt of payment. Recipient procedures must minimize the time elapsing between the drawdown of Federal funds and the disbursement for agreement purposes.

Recipients must complete enrollment in ASAP for all active financial assistance agreements with Reclamation. ASAP enrollment is specific to each Agency and Bureau; meaning, if a Recipient organization has an existing ASAP account with another Federal agency or Department of the Interior bureau, but not with Reclamation, then the Recipient must initiate and complete enrollment in ASAP under Reclamation's Agency Location Code (1425) through submission of an enrollment form found at www.usbr.gov/mso/aamd/asap.html. For information regarding ASAP enrollment, please visit www.usbr.gov/mso/aamd/asap.html, or contact the Reclamation ASAP Help Desk BOR_ASAP_Enroll@usbr.gov. Further information regarding ASAP may be obtained from the ASAP website at <http://www.fms.treas.gov/asap>.

In accordance with 2 CFR 25.200(b)(2) the Recipient shall "Maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by an agency". If the Recipient allows their SAM registration to lapse, the Recipient's accounts within ASAP will be automatically suspended by Reclamation until such time as the Recipient renews their SAM registration.

3. PROCUREMENT STANDARDS (2 CFR§200.317 through §200.326)

§200.317 Procurements by states.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section §200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow §§200.318 General procurement standards through 200.326 Contract provisions.

§200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)

(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a

more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.212 Suspension and debarment.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)

(1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

§200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

- (i) A complete, adequate, and realistic specification or purchase description is available;
- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

- (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publically advertised;
- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (2) Proposals must be solicited from an adequate number of qualified sources;
- (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

§200.323 Contract cost and price.

- (a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.
- (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- (c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.
- (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§200.324 Federal awarding agency or pass-through entity review.

- (a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
- (b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
- (1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
 - (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a “brand name” product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

4. EQUIPMENT (2 CFR §200.313)

See also §200.439 Equipment and other capital expenditures.

(a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity. Unless a statute specifically authorizes the Federal agency to vest title in the non-Federal entity without further obligation to the Federal Government, and the Federal agency elects to do so, the title must be a conditional title. Title must vest in the non-Federal entity subject to the following conditions:

(1) Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.

(2) Not encumber the property without approval of the Federal awarding agency or pass-through entity.

(3) Use and dispose of the property in accordance with paragraphs (b), (c) and (e) of this section.

(b) A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures. Other non-Federal entities must follow paragraphs (c) through (e) of this section.

(c) Use.

(1) Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:

(i) Activities under a Federal award from the Federal awarding agency which funded the original program or project, then

(ii) Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.

(2) During the time that equipment is used on the project or program for which it was acquired, the non-Federal entity must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by Federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in §200.307 Program income to earn program income, the non-Federal entity must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment.

(4) When acquiring replacement equipment, the non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

(d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) Disposition. When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:

- (1) Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.
- (2) Except as provided in §200.312 Federally-owned and exempt property, paragraph (b), or if the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair-market value in excess of \$5,000 may be retained by the non-Federal entity or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
- (3) The non-Federal entity may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the non-Federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.
- (4) In cases where a non-Federal entity fails to take appropriate disposition actions, the Federal awarding agency may direct the non-Federal entity to take disposition actions.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75884, Dec. 19, 2014]

5. SUPPLIES (2 CFR §200.314)

See also §200.453 Materials and supplies costs, including costs of computing devices.

(a) Title to supplies will vest in the non-Federal entity upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment. See §200.313 Equipment, paragraph (e)(2) for the calculation methodology.

(b) As long as the Federal Government retains an interest in the supplies, the non-Federal entity must not use supplies acquired under a Federal award to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.

6. INSPECTION

Reclamation has the right to inspect and evaluate the work performed or being performed under this Agreement, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If Reclamation performs inspection or evaluation on the premises of the Recipient or a sub-Recipient, the Recipient shall furnish and shall require sub-recipients to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

7. AUDIT REQUIREMENTS (2 CFR Subpart F §200.501)

(a) Audit required. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.

(b) Single audit. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

(d) Exemption when Federal awards expended are less than \$750,000. A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).

(e) Federally Funded Research and Development Centers (FFRDC). Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.

(f) Subrecipients and Contractors. An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not Federal awards. Section §200.330 Subrecipient and contractor determinations sets forth the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.

(g) Compliance responsibility for contractors. In most cases, the auditee's compliance responsibility for contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with Federal statutes, regulations, and the terms and conditions of Federal awards. Federal award compliance requirements normally do not pass through to contractors. However, the auditee is responsible for ensuring compliance for procurement transactions which are structured such that the contractor is responsible for program compliance or the contractor's records must be reviewed to determine program compliance. Also, when these procurement transactions relate to a major program, the scope of the audit must include determining whether these transactions are in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards.

(h) For-profit subrecipient. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The agreement with the for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits. See also §200.331 Requirements for pass-through entities.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75887, Dec. 19, 2014]

8. REMEDIES FOR NONCOMPLIANCE (2 CFR §200.338)

§200.338 Remedies for noncompliance.

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in §200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the Federal award.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- (e) Withhold further Federal awards for the project or program.
- (f) Take other remedies that may be legally available.

9. TERMINATION (2 CFR §200.339)

(a) The Federal award may be terminated in whole or in part as follows:

- (1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
- (2) By the Federal awarding agency or pass-through entity for cause;
- (3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or
- (4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated.
However, if the Federal awarding agency or pass-through entity determines in the case of

partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

(b) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.

10. DEBARMENT AND SUSPENSION (2 CFR §1400)

The Department of the Interior regulations at 2 CFR 1400—Governmentwide Debarment and Suspension (Nonprocurement), which adopt the common rule for the governmentwide system of debarment and suspension for nonprocurement activities, are hereby incorporated by reference and made a part of this Agreement. By entering into this grant or cooperative Agreement with the Bureau of Reclamation, the Recipient agrees to comply with 2 CFR 1400, Subpart C, and agrees to include a similar term or condition in all lower-tier covered transactions. These regulations are available at <http://www.gpoaccess.gov/ecfr/>.

11. DRUG-FREE WORKPLACE (2 CFR §182 and §1401)

The Department of the Interior regulations at 2 CFR 1401—Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), which adopt the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq, as amended) applicable to grants and cooperative agreements, are hereby incorporated by reference and made a part of this agreement. By entering into this grant or cooperative agreement with the Bureau of Reclamation, the Recipient agrees to comply with 2 CFR 182.

12. ASSURANCES AND CERTIFICATIONS INCORPORATED BY REFERENCE

The provisions of the Assurances, SF 424B or SF 424D as applicable, executed by the Recipient in connection with this Agreement shall apply with full force and effect to this Agreement. All anti-discrimination and equal opportunity statutes, regulations, and Executive Orders that apply to the expenditure of funds under Federal contracts, grants, and cooperative Agreements, loans, and other forms of Federal assistance. The Recipient shall comply with Title VI or the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and any program-specific statutes with anti-discrimination requirements. The Recipient shall comply with civil rights laws including, but not limited to, the Fair Housing Act, the Fair Credit Reporting Act, the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, the Equal Educational Opportunities Act, the Age Discrimination in Employment Act, and the Uniform Relocation Act.

Such Assurances also include, but are not limited to, the promise to comply with all applicable Federal statutes and orders relating to nondiscrimination in employment, assistance, and housing; the Hatch Act; Federal wage and hour laws and regulations and work place safety standards;

Federal environmental laws and regulations and the Endangered Species Act; and Federal protection of rivers and waterways and historic and archeological preservation.

13. COVENANT AGAINST CONTINGENT FEES

The Recipient warrants that no person or agency has been employed or retained to solicit or secure this Agreement upon an Agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide offices established and maintained by the Recipient for the purpose of securing Agreements or business. For breach or violation of this warranty, the Government shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement amount, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

14. TRAFFICKING VICTIMS PROTECTION ACT OF 2000 (2 CFR §175.15)

Trafficking in persons.

(a) *Provisions applicable to a recipient that is a private entity.*

(1) You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not

(i) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

(ii) Procure a commercial sex act during the period of time that the award is in effect; or

(iii) Use forced labor in the performance of the award or subawards under the award.

(2) We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

(i) Is determined to have violated a prohibition in paragraph a.1 of this award term; or

(ii) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either:

(A) Associated with performance under this award; or

(B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 *CFR part 1400*.

(b) *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

(1) Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

(2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either:

(i) Associated with performance under this award; or

(ii) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 *CFR part 1400*.

(c) *Provisions applicable to any recipient.*

(1) You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

(2) Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

(i) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

(ii) Is in addition to all other remedies for noncompliance that are available to us under this award.

(3) You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

(d) *Definitions.* For purposes of this award term:

(1) “Employee” means either:

(i) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

(ii) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

(2) “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(3) “Private entity”:

(i) Means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

(ii) Includes:

(A) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

(B) A for-profit organization.

(4) “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

15. NEW RESTRICTIONS ON LOBBYING (43 CFR §18)

The Recipient agrees to comply with 43 CFR 18, New Restrictions on Lobbying, including the following certification:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying” in accordance with its instructions.

(c) The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making

or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

16. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (URA) (42 USC § 4601 *et seq.*)

- (a) The Uniform Relocation Assistance Act (URA), 42 U.S.C. § 4601 *et seq.*, as amended, requires certain assurances for Reclamation funded land acquisition projects conducted by a Recipient that cause the displacement of persons, businesses, or farm operations. Because Reclamation funds only support acquisition of property or interests in property from willing sellers, it is not anticipated that Reclamation funds will result in any “displaced persons,” as defined under the URA.
- (b) However, if Reclamation funds are used for the acquisition of real property that results in displacement, the URA requires Recipients to ensure that reasonable relocation payments and other remedies will be provided to any displaced person. Further, when acquiring real property, Recipients must be guided, to the greatest extent practicable, by the land acquisition policies in 42 U.S.C. § 4651.
- (c) Exemptions to the URA and 49 CFR Part 24
 - (1) The URA provides for an exemption to the appraisal, review and certification rules for those land acquisitions classified as “voluntary transactions.” Such “voluntary transactions” are classified as those that do not involve an exercise of eminent domain authority on behalf of a Recipient, and must meet the conditions specified at 49 CFR § 24.101(b)(1)(i)-(iv).
 - (2) For any land acquisition undertaken by a Recipient that receives Reclamation funds, but does not have authority to acquire the real property by eminent domain, to be exempt from the requirements of 49 CFR Part 24 the Recipient must:
 - (i) provide written notification to the owner that it will not acquire the property in the event negotiations fail to result in an amicable agreement, and;
 - (ii) inform the owner in writing of what it believes to be the market value of the property
- (d) Review of Land Acquisition Appraisals. Reclamation reserves the right to review any land appraisal whether or not such review is required under the URA or 49 CFR § 24.104. Such reviews may be conducted by the Department of the Interior’s Appraisal Services Directorate or a Reclamation authorized designee. When Reclamation determines that a review of the original appraisal is necessary, Reclamation will notify the Recipient and provide an estimated completion date of the initial appraisal review.

17. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER REQUIREMENTS (2 CFR 25, APPENDIX A)

The Central Contractor Registration (CCR) has been migrated to the System for Award Management (SAM). Recipients must continue to comply with the CCR requirements below by maintaining current registration within www.SAM.gov.

A. Requirement for Central Contractor Registration (CCR)

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) Numbers

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (*see* definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions

For purposes of this award term:

1. *Central Contractor Registration (CCR)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).
2. *Data Universal Numbering System (DUNS) number* means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
3. *Entity*, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
 - a. A Governmental organization, which is a state, local government, or Indian Tribe;
 - b. A foreign public entity;
 - c. A domestic or foreign nonprofit organization;
 - d. A domestic or foreign for-profit organization; and
 - e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. *Subaward*:

- a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, *see* Sec. II.210 of the attachment to OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations”).
- c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. *Subrecipient* means an entity that:

- a. Receives a subaward from you under this award; and
- b. Is accountable to you for the use of the Federal funds provided by the subaward.

18. PROHIBITION ON TEXT MESSAGING AND USING ELECTRONIC EQUIPMENT SUPPLIED BY THE GOVERNMENT WHILE DRIVING

Executive Order 13513, *Federal Leadership On Reducing Text Messaging While Driving*, was signed by President Barack Obama on October 1, 2009 (ref: <http://edocket.access.gpo.gov/2009/pdf/E9-24203.pdf>). This Executive Order introduces a Federal Government-wide prohibition on the use of text messaging while driving on official business or while using Government-supplied equipment. Additional guidance enforcing the ban will be issued at a later date. In the meantime, please adopt and enforce policies that immediately ban text messaging while driving company-owned or rented vehicles, government-owned or leased vehicles, or while driving privately owned vehicles when on official government business or when performing any work for or on behalf of the government.

19. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (2 CFR 170 APPENDIX A)

I. Reporting Subawards and Executive Compensation.

a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2. *Where and when to report.*

- i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsr.gov>.

- ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
- 3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.
- b. *Reporting Total Compensation of Recipient Executives.*
 - 1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
 - i. the total Federal funding authorized to date under this award is \$25,000 or more;
 - ii. in the preceding fiscal year, you received—
 - (A) 80 percent or more of your 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
 - iii. 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>.)
 - 2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:
 - i. As part of your registration profile at <http://www.ccr.gov>.
 - ii. By the end of the month following the month in which this award is made, and annually thereafter.
- c. *Reporting of Total Compensation of Subrecipient Executives.*
 - 1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
 - i. in the subrecipient's preceding fiscal year, the subrecipient received—
 - (A) 80 percent or more of its 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 (and subawards); and

ii. 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>.)

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

- i. To the recipient.
- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. *Exemptions*

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards,
and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. *Definitions.* For purposes of this award term:

1. *Entity* means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization;
 - iv. A domestic or foreign for-profit organization;
 - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
2. *Executive* means officers, managing partners, or any other employees in management positions.
3. *Subaward:*
 - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. __ .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. *Subrecipient* means an entity that:

- i. Receives a subaward from you (the recipient) under this award; and
- ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

- i. *Salary and bonus.*
- ii. *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iii. *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
- v. *Above-market earnings on deferred compensation which is not tax-qualified.*
- vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

20. RECIPIENT EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013)

(a) This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub.L. 112-239).

(b) The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C 4712.

(c) The Award Recipient shall insert the substance of this clause, including this paragraph (c), in all subawards or subcontracts over the simplified acquisition threshold. 48 CFR § 52.203-17 (as referenced in 48 CFR § 3.908-9).

21. RECIPIENT INTEGRITY AND PERFORMANCE MATTERS (APPENDIX XII to 2 CFR Part 200)

A. Reporting of Matters Related to Recipient Integrity and Performance

1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five year period; and
- c. Is one of the following:
 - (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - (3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

- (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
- (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
- (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions

For purposes of this award term and condition:

- a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered

upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

- (1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
- (2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.