COUNTY OF LOS ANGELES

Department of
Agricultural Commissioner/
Weights and Measures

Kurt E. Floren
Agricultural Commissioner
Director of Weights and Measures

12300 Lower Azusa Road
Arcadia, California 91006-5872
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Richard K. Iizuka
Chief Deputy

March 3, 2009

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

RESOLUTION AUTHORIZING THE SUBMITTAL OF APPLICATIONS FOR CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD FARM AND RANCH SOLID WASTE CLEANUP GRANTS (FIFTH DISTRICT) (4 VOTES)

SUBJECT

This resolution will authorize the Agricultural Commissioner/Director of Weights and Measures, or his designee, to apply for one or more of the California Integrated Waste Management Board (CIWMB) Farm and Ranch Cleanup Grants (Grants) for up to $200,000 per year for a period of five years.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Adopt the resolution authorizing the Agricultural Commissioner/Director of Weights and Measures, or his designee, to apply for CIWMB Grants totaling up to $200,000 per year for five years at no net County cost.

2. Authorize the Agricultural Commissioner/Director of Weights and Measures, or his designee, to execute in the name of the County of Los Angeles all necessary Grant documents.

3. Delegate authority to the Agricultural Commissioner/Director of Weights and Measures, or his designee, to accept and execute grant awards with Terms and Conditions substantially similar to Exhibit A, subject to review and approval by CEO and County Counsel and notification to Board offices.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:

Illegal dumping of solid waste on vacant land is a serious problem throughout much of the State. Because the area still has farms, ranches and vast tracts of open land, the Antelope Valley has been particularly vulnerable. Recognizing the significance of the problem, legislators voted to amend State law (Public Resources Code) in 1997, authorizing the CIWMB to award grants to pay for designated costs of cleanup, abatement, or other remedial action related to the illegal disposal of solid waste on farm or ranch property.

The Department of Agricultural Commissioner/Weights and Measures (ACWM) currently performs a limited volume of illegal dumping remediation pursuant to its weed, brush and rubbish abatement authority. In addition, Section 318.15 of the Los Angeles County Fire Code authorizes ACWM to enforce the prohibition on illegal dumping in hazardous fire areas. ACWM would like to expand its ability to help with this serious issue and intends to apply for one or more of the Grants over the next five years.

Implementation of Strategic Plan Goals:

The recommended action supports Strategic Plan Goals 4 (Fiscal Responsibility) and 6 (Community Services). The result of a successful grant application would be funding for the removal of illegally dumped solid waste and a corresponding improvement of the quality of life for many residents of Los Angeles County's largest unincorporated area.

FISCAL IMPACT/FINANCING:

The CIWMB Grants are reimbursement grants. As the Grantee, ACWM would incur the expense for the cleanup of the illegally dumped solid waste and then file a payment request along with supporting documentation to obtain payment from the CIWMB. For each Grant application, ACWM will prepare a budget sufficient to allow for the recovery of costs incurred for the cleanup. Personnel or administrative costs related to the preparation of the Grant application are ineligible for reimbursement. Therefore, ACWM will incur a level of unrecoverable costs, but these are not anticipated to be significant. Aside from this, the department anticipates that grant amounts will be sufficient to cover the cost of cleanups and there will not be any net county cost. No local match is required.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

The California Public Resources Code Sections 48100-48106 (Code) establishes the Farm and Ranch Grant Program and authorizes the CIWMB to award grants to specified public entities, including counties. The relevant regulations are found in Title 14 of the California Code of Regulations. Section 17993.3(a)(2) requires, as part of the

application for a grant, a copy of the adopted resolution from the applicant's governing body authorizing the submittal of the application and identifying the title of the individual authorized to execute any agreements, contracts and requests for payment to carry out any project.

This resolution will permit ACWM to apply for Grants for a period of five years from Fiscal Year 2008-2009 through Fiscal Year 2012-2013. Grant amounts are up to $50,000 for any single cleanup project not to exceed a total of $200,000 per year for all Los Angeles County departments.

This is the first time that ACWM is seeking grant funding for solid waste cleanup efforts. However, the Board has passed similar CIWMB grant resolutions authorizing the departments of Health Services (now Public Health) and Public Works to apply for Farm and Ranch Cleanup, and Tire Recycling, Cleanup and Enforcement grants, respectively.

The contractual requirements of the resolution have been approved by County Counsel.

IMPACT ON CURRENT SERVICES:

As part of its ongoing weed, brush and rubbish abatement program, ACWM already has considerable expertise and resources available including seasonal crews, trash compactors and contracted vendors. It is not anticipated that a Grant award would have an adverse impact on ACWM's current services.

Respectfully submitted,

KURT E. FLOREN
Agricultural Commissioner
Director of Weights and Measures

KEF:RKI:RBS:mm

Attachments (2)

c: County Counsel

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
FARM AND RANCH SOLID WASTE CLEANUP GRANT PROGRAM

RESOLUTION AUTHORIZING
FARM AND RANCH CLEANUP GRANT APPLICATION

WHEREAS, illegal dumping of solid waste on actual or potential farm and ranch property is a serious problem in the Antelope Valley area of Los Angeles County.

WHEREAS, State Law authorizes the California Integrated Waste Management Board (CIWMB) to award Farm and Ranch Solid Waste Cleanup and Abatement Grants (Grants) to eligible applicants to pay for designated costs of cleanup, abatement, or other remedial action related to the illegal disposal of solid waste on farm or ranch property; and

WHEREAS, the CIWMB requires, as a condition of application, that the applicant receive from their governing body a resolution authorizing the submittal of applications and identifying the title of the individual authorized to execute any agreements, contracts and requests for payment to carry out the project; and

WHEREAS, the Agricultural Commissioner/Director of Weights and Measures, intends to apply for one or more of the Grants;

NOW, THEREFORE, BE IT RESOLVED that the Los Angeles County Board of Supervisors hereby;

1. Authorizes the submission of one or more Farm and Ranch Cleanup and Abatement Grant applications for the period of Fiscal Year 2008-2009 through Fiscal Year 2012-2013; and

2. Certifies that said applicant has, or will have sufficient funds in addition to funds provided by the grant to complete the projects; and

BE IT FURTHER RESOLVED that the Agricultural Commissioner/Director of Weights and Measures, or his designee, is hereby authorized and empowered to execute in the name of the County of Los Angeles all necessary Farm and Ranch Solid Waste Cleanup and Abatement Grant documents, including, but not limited to, the application, the Grant Agreement, the Grant Payment Requests and amendments necessary for the purposes of securing grant funds and for the implementation and completion of the Grant project.

The foregoing resolution was on
The 3RD day of MARCH, 2009,
adopted by the Board of Supervisors of the County
of Los Angeles and ex officio the governing body
of all other special assessment and taxing districts,
agencies and authorities for which said Board so acts.

SACHI A. HAMAI, Executive Officer-
Clerk of the Board of Supervisors of
The County of Los Angeles

By _____
Deputy

APPROVED AS TO FORM
BY COUNTY COUNSEL

RAYMOND G. FORTNER, JR.

By _____
Deputy

EXHIBIT A
TERMS AND CONDITIONS

Farm and Ranch Solid Waste Cleanup Abatement Grant Program
Fiscal Year 2008/09

This grant may not be funded unless the proposed Grantee meets the following two conditions:

1) The proposed Grantee must pay or bring current all outstanding debts or scheduled payments owed to the California Integrated Waste Management Board (CIWMB) within ninety (90) days from the date of the grant award. The Grant Agreement will not be released by the CIWMB until all outstanding invoices have been paid.
2) The proposed Grantee must complete, sign, and return the Grant Agreement within ninety (90) days from the date recorded on the Grant Agreement package's cover letter.

The following terms used in this Grant Agreement (Agreement) have the meanings given to them below, unless the context clearly indicates otherwise:

- "CIWMB" means the California Integrated Waste Management Board.
- "Executive Director" means the Executive Director of the CIWMB or his or her designee.
- "Grant Agreement" and "Agreement" means all documents comprising the agreement between the CIWMB and the Grantee for this Grant.
- "Grant Manager" means the CIWMB staff person responsible for monitoring the grant.
- "Grantee" means the recipient of funds pursuant to this Agreement.
- "Program" means the Farm and Ranch Solid Waste Cleanup Abatement Grant Program.
- "State" means the State of California, including, but not limited to, the CIWMB and/or its designated officer.

1. ACKNOWLEDGEMENTS

The Grantee shall acknowledge the CIWMB's support each time projects funded, in whole or in part, by this Agreement are publicized in any medium, including, but not limited to, news media, brochures, or other types of promotional materials. The acknowledgement of the CIWMB's support must incorporate the CIWMB logo and state "Funded by a Grant from the California Integrated Waste Management Board." Initials or abbreviations for the CIWMB shall not be used. The Grant Manager may approve deviation from this prescribed language on a case-by-case basis where such deviation is consistent with the CIWMB's Communication Strategy and Outreach Plan. If, subsequent to this Agreement, the CIWMB adopts updated or new logos or language (language), the Grant Manager may require the Grantee to include this language in newly printed or generated materials.

2. ADVERTISING/ PUBLIC EDUCATION

The Grantee shall submit copies of all draft public education or advertising materials to the Grant Manager for review and approval prior to the Grantee's production of materials. Unless omission of the following copyright designation is pre-approved in writing by the Grant Manager, all public education and advertising materials shall state: "© {year of creation} by the California Integrated Waste Management Board (CIWMB). All rights reserved. This publication, or parts thereof, may not be reproduced without permission from CIWMB."

3. AIR OR WATER POLLUTION VIOLATION

Under the State laws, the Grantee shall not be:

a. In violation of an order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district;

b. Subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or
c. Finally determined to be in violation of provisions of federal law relating to air or water pollution.

4. AMENDMENT

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated into this Agreement is binding on any of the parties.

5. AMERICANS WITH DISABILITIES ACT

The Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. § 12101 et seq.).

6. ANTITRUST CLAIMS

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

a. The Government Code Chapter on Antitrust claims contains the following definitions:
   1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
   2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

7. ASSIGNMENT, SUCCESSORS AND ASSIGNS

a. This Agreement may not be assigned by the Grantee, either in whole or in part, without the CIWMB's prior written consent.

b. The provisions of this Agreement shall be binding upon and inure to the benefit of the CIWMB, the Grantee, and their respective successors and assigns.

8. AUDIT/RECORDS ACCESS

The Grantee agrees that the CIWMB, the Department of Finance, the Bureau of State Audits, or their designated representative(s) shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The Grantee agrees to maintain such records for possible audit for a minimum of three (3) years after final payment date unless a longer period of records retention is stipulated, or until completion of any action and resolution of all issues which may arise as a result of any litigation, dispute, or audit, whichever is later. The Grantee agrees to allow the designated representative(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Grantee agrees to include a similar right of the State to audit records and interview staff in any contract or subcontract related to performance of this Agreement.

[You may find it helpful to share the Terms and Conditions and Procedures and Requirements with your finance department, contractors and subcontractors. Examples of audit documentation include, but are not limited to: expenditure ledger, payroll register entries and time sheets, personnel expenditure summary form, travel expense log, paid warrants, contracts, change orders, invoices, and/or cancelled checks.]

9. AUTHORIZED REPRESENTATIVE

The Grantee shall continuously maintain a representative vested with signature authority authorized to work with CIWMB on all grant-related issues. The Grantee shall, at all times, keep the Grant Manager informed as to the identity and contact information of the authorized representative.

10. AVAILABILITY OF FUNDS

The CIWMB's obligations under this Agreement are contingent upon and subject to the availability of funds appropriated for this grant.

11. CHILD SUPPORT COMPLIANCE ACT

For any agreement in excess of $100,000, the Grantee acknowledges that:

a. The Grantee recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and

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

12. COMMUNICATIONS

All communications from the Grantee to the CIWMB shall be directed to the Grant Manager. All notices, including reports and payment requests, required by this Agreement shall be given in writing by E-mail, letter or FAX to the Grant Manager as identified in Exhibit B – Procedures and Requirements. If an original document is required, prepaid mail or personal delivery to the Grant Manager is required following the E-mail or FAX.

13. COMPETITIVE BIDDING

The CIWMB encourages Grantees to use a competitive bidding process, or to require and maintain on file a written justification for any exceptions thereto, when contracting for services required under this Agreement.

14. COMPLIANCE

The Grantee shall comply fully with all applicable federal, state, and local laws, ordinances, regulations, and permits. The Grantee shall provide evidence, upon request, that all local, state, and/or federal permits, licenses, registrations, and approvals have been secured for the purposes for which grant funds are to be expended. The Grantee shall maintain compliance with such requirements throughout the grant period. The Grantee shall ensure that the requirements of the California Environmental Quality Act are met for any approvals or other requirements necessary to carry out the terms of this Agreement. Any deviation from the requirements of this section shall result in non-payment of grant funds.

With each Payment Request (CIWMB 87), the Grantee's signature authority shall either initial and certify under penalty of perjury that the Grantee's General Checklist of Permits, Licenses, and Filings (CIWMB 669) on file with the CIWMB is current and complete, or submit an updated General Checklist of Permits, Licenses, and Filings (CIWMB 669) available at: www.ciwmb.ca.gov/Grants/Forms/CIWMB669.doc.

15. CONFLICT OF INTEREST

The Grantee needs to be aware of the following provisions regarding current or former state employees. If the Grantee has any questions on the status of any person rendering services or involved with this Agreement, the CIWMB must be contacted immediately for clarification. If the Grantee violates any provisions of the following paragraphs, such action by the Grantee shall render this Agreement void [Public Contracts Code (PCC) § 10420]:

Current State Employees (Public Contracts Code (PCC) § 10410):

a. No officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity, or enterprise is required as a condition of regular state employment.

b. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (PCC § 10411):

a. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

b. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the twelve month period prior to his or her leaving state service.

16. CONTRACTORS/ SUBCONTRACTORS/ VENDORS — DEFINITIONS

Contractor: A person or entity that contracts with the Grantee to perform eighty percent (80%) or more of the work required by this Agreement, including, but not limited to, any requirements imposed by the CIWMB.

Subcontractor: A person or entity that contracts with the Grantee or Contractor to perform a portion (less than eighty percent [80%]) of the work required by this Agreement, including, but not limited to, any requirements imposed by the CIWMB.

Vendor: A person or entity that contracts to sell goods; the sale of services is expressly excluded from this definition.

17. CONTRACTORS/ SUBCONTRACTORS

The Grantee will be entitled to make use of its own staff and such contractors and subcontractors as are mutually acceptable to the Grantee and the CIWMB. Any change in contractors or subcontractors must be mutually acceptable to the parties. Immediately upon termination of any such (sub)contract, the Grantee shall notify the Grant Manager.

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the CIWMB and any contractors or subcontractors of Grantee, and no agreement with contractors or subcontractors shall relieve the Grantee of its responsibilities and obligations hereunder. The Grantee agrees to be as fully responsible to the CIWMB for the acts and omissions of its contractors and subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Grantee. The Grantee's obligation to pay its contractors and subcontractors is an independent obligation from the CIWMB's obligation to make payments to the Grantee. As a result, the CIWMB shall have no obligation to pay or to enforce the payment of any moneys to any contractor or subcontractor.

18. COPYRIGHTS AND TRADEMARKS

a. To the extent the Grantee shall have the legal right to do so, Grantee shall assign to the CIWMB any and all rights, title, and interests to any copyrightable material or trademarkable material created or developed in whole or in any part as a result of this Agreement, but which originated from previously copyrighted or trademarked material. With respect to all other copyrightable and trademarkable materials, the CIWMB shall retain any and all rights, title and interests to any copyrightable material or trademarkable material created or developed in whole or in any part as a result of this Agreement. These rights, both assigned and retained, shall include the right to register for copyright or trademark of such materials. Grantee shall require that its contractors and subcontractors agree that all such materials shall be the property of the CIWMB. The Grantee is responsible for obtaining any necessary licenses, permissions, releases or authorizations to use text, images or other materials owned, copyrighted or trademarked by third parties and for assigning such licenses, permissions, releases, or authorizations to the CIWMB pursuant to this section. Copies of any licenses, permissions, releases or authorizations obtained pursuant for the use of text, images or other materials owned, copyrighted or trademarked by third parties shall be provided to the Grant Manager. Under unusual and very limited circumstances, where to do so would not conflict with the rights of the CIWMB and would serve the public interest, upon written request by the Grantee, the CIWMB may give, at the Executive Director's sole discretion, written consent to the Grantee to retain all or any part of the ownership of these rights.

b. The CIWMB hereby grants to the Grantee a royalty-free, nonexclusive, nontransferable world-wide license to reproduce, translate, and distribute copies of the copyrightable materials produced pursuant this Agreement, for nonprofit, non-commercial purposes, and to have or permit others to do so on the Grantee's behalf. This license is limited to the copyrightable materials produced pursuant to this Agreement and does not extend to any materials capable of being trademarked. The following shall appear on all intellectual property used by Contractor pursuant to this license, solely for the purpose of protecting the CIWMB's intellectual property rights therein: "© {year of

creation} by the California Integrated Waste Management Board (CIWMB). Used pursuant to license granted by CIWMB. All rights reserved. This publication, or parts thereof, may not be reproduced without permission."

19. CORPORATION QUALIFIED TO DO BUSINESS IN CALIFORNIA

When work under this Agreement is to be performed in California by a corporation, the corporation shall be in good standing and currently qualified to do business in the State. "Doing business" is defined in Revenue and Taxation Code Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

20. DISCLAIMER OF WARRANTY

The CIWMB makes no warranties, express or implied, including without limitation, the implied warranties of merchantability and fitness for a particular purpose, regarding the materials, equipment, services or products purchased, used, obtained and/or produced with funds awarded under this Agreement, whether such materials, equipment, services or products are purchased, used, obtained and/or produced alone or in combination with other materials, equipment, services or products. No CIWMB employees or agents have any right or authority to make any other representation, warranty or promise with respect to any materials, equipment, services or products, purchased, used, obtained, or produced with grant funds. In no event shall the CIWMB be liable for special, incidental or consequential damages arising from the use, sale or distribution of any materials, equipment, services or products purchased or produced with grant funds awarded under this Agreement.

21. DISCRETIONARY TERMINATION

The Executive Director shall have the right to terminate this Agreement at his or her sole discretion at any time upon thirty (30) days written notice to the Grantee. Within forty-five (45) days of receipt of written notice, Grantee is required to:

a. Submit a final written report describing all work performed by the Grantee;
b. Submit an accounting of all grant funds expended up to and including the date of termination; and,
c. Reimburse the CIWMB for any unspent funds.

22. DISPUTES

Unless otherwise instructed by the Grant Manager, the Grantee shall continue with its responsibilities under this Agreement during any dispute.

23. DRUG-FREE WORKPLACE CERTIFICATION

The person signing this Agreement on behalf of the Grantee certifies under penalty of perjury under the laws of California, that the Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (GC § 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions that will be taken against employees for violations.
b. Establish a drug-free awareness program to inform employees about all of the following: (1) the dangers of drug abuse in the workplace, (2) the Grantee's policy of maintaining a drug-free workplace, (3) any available counseling, rehabilitation, and employee assistance programs, and (4) penalties that may be imposed upon employees for drug abuse violations.
c. Require that each employee who works on the grant: (1) receive a copy of the drug-free policy statement of the Grantee, and (2) agrees to abide by the terms of such statement as a condition of employment on the grant.

24. EFFECTIVENESS OF

This Agreement is of no force or effect until signed by both parties.

AGREEMENT	
25. ENTIRE AGREEMENT	This Agreement supersedes all prior agreements, oral or written, made with respect to the subject hereof and, together with all attachments hereto, contains the entire Agreement of the parties.
26. ENVIRONMENTAL JUSTICE	In the performance of this Agreement, Grantee shall conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the State.
27. EXPATRIATE CORPORATIONS	The person signing this Agreement on behalf of the Grantee certifies under penalty of perjury under the laws of California, that the Grantee is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.
28. FAILURE TO PERFORM AS REQUIRED BY THIS AGREEMENT	The CIWMB will benefit from the Grantee's full compliance with the terms of this Agreement only by the Grantee's: a. Investigation and application of technologies, processes, and/or devices which support reduction, reuse, and/or recycling of wastes; or b. Cleanup of the environment; or c. Enforcement of solid waste statutes and regulations, as applicable. Therefore, the Grantee shall be in compliance with this Agreement only if the work it performs results in: a. Application of information, a process, usable data or a partial product which can be used to aid in reduction, reuse, and/or recycling of waste; or b. The cleanup of the environment; or c. The enforcement of solid waste statutes and regulations, as applicable. If the Grant Manager determines that the Grantee has not complied with the Grant Agreement, the Grantee may forfeit the right to reimbursement of any grant funds not already paid by the CIWMB, including, but not limited to, the ten percent (10%) withhold.
29. FORCE MAJEURE	Neither the CIWMB nor the Grantee, its contractors, vendors, or subcontractors, if any, shall be responsible hereunder for any delay, default, or nonperformance of this Agreement, to the extent that such delay, default, or nonperformance is caused by an act of God, weather, accident, labor strike, fire, explosion, riot, war, rebellion, sabotage, flood, or other contingencies unforeseen by the CIWMB or the Grantee, its contractors, vendors, or subcontractors, and beyond the reasonable control of such party.
30. FORFEIT OF GRANT FUNDS/REPAYMENT OF FUNDS IMPROPERLY EXPENDED	If grant funds are not expended, or have not been expended, in accordance with this Agreement, or if real or personal property acquired with grant funds is not being used, or has not been used, for grant purposes in accordance with this Agreement, the Executive Director, at his or her sole discretion, may take appropriate action under this Agreement, at law or in equity, including requiring the Grantee to forfeit the unexpended portion of the grant funds, including, but not limited to, the ten percent (10%) withhold, and/or to repay to the CIWMB any funds improperly expended.
31. GENERALLY ACCEPTED	The Grantee is required to use Generally Accepted Accounting Principles in

ACCOUNTING PRINCIPLES	documenting all grant expenditures.
32. GRANT MANAGER'S AUTHORITY	The Grant Manager does not have the authority to approve any deviation from or revision to the Terms and Conditions (Exhibit A) or the Procedures and Requirements (Exhibit B), unless such authority is expressly stated in the Procedures and Requirements (Exhibit B).
33. GRANTEE ACCOUNTABILITY	The Grantee is ultimately responsible and accountable for the manner in which the grant funds are utilized and accounted for and the way the grant is administered, even if the Grantee has contracted with another organization, public or private, to administer or operate its grant program. In the event an audit should determine that grant funds are owed to the CIWMB, the Grantee is responsible for repayment of the funds to the CIWMB.
34. GRANTEE'S INDEMNIFICATION AND DEFENSE OF THE STATE	The Grantee agrees to indemnify, defend and save harmless the State and the CIWMB, and their officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Grantee in the performance of this Agreement.
35. GRANTEE'S NAME CHANGE	A written amendment is required to change the Grantee's name as listed on this Agreement. Upon receipt of legal documentation of the name change, the CIWMB will process the amendment. Payment of Payment Requests presented with a new name cannot be paid prior to approval of the amendment.
36. LANDOWNER COMPENSATION FOR LABOR	The CIWMB will not compensate a landowner for the cost of the landowner's own labor, or the labor of the landowner's immediate family members (parents, spouse, children and siblings) in performing work necessary to clean up the landowner's property. This includes situations in which the landowner is a licensed contractor and/or owns a company or an interest in a company licensed or qualified to perform work needed to clean up the property.
37. LICENSED CONTRACTORS	In the performance of this Agreement, the Grantee shall use licensed, permitted and/or registered contractors for all work and/or services for which a license is required by local, state or federal statute, ordinance or regulation. Such services include, but are not limited to, earthwork and paving (16 CCR § 832.12), fencing (16 CCR § 832.13), landscaping (16 CCR § 832.27), sign installation (16 CCR § 832.61 – D-42), construction cleanup (16 CCR § 832.61 – D-63), land clearing (16 CCR § 832.61 – D-19), waste tire facility operators (14 CCR § 18420, PRC § 42820, et seq.) and waste tire haulers (14 CCR §§ 18454, 18455; PRC § 42951).
38. NATIONAL LABOR RELATIONS BOARD CERTIFICATION	The person signing this Agreement on behalf of the Grantee certifies under penalty of perjury under the laws of California that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Grantee within the immediately preceding two-year period because of the Grantee's failure to comply with an order of a federal court which orders the Grantee to comply with an order of the National Labor Relations Board. (Not applicable to public entities)
39. NO AGENCY RELATIONSHIP CREATED/ INDEPENDENT	The Grantee and the agents and employees of Grantee, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees

CAPACITY

or agents of the State.

40. NO WAIVER OF RIGHTS

The CIWMB shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by the CIWMB. No delay or omission on the part of the CIWMB in exercising any rights shall operate as a waiver of such right or any other right. A waiver by the CIWMB of a provision of this Agreement shall not prejudice or constitute a waiver of the CIWMB's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by the CIWMB, nor any course of dealing between CIWMB and Grantee, shall constitute a waiver of any of CIWMB's rights or of any of Grantee's obligations as to any future transactions. Whenever the consent of the CIWMB is required under this Agreement, the granting of such consent by the CIWMB in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of the CIWMB.

41. NON-DISCRIMINATION CLAUSE

a. During the performance of this Agreement, Grantee and its contractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment on the bases enumerated in Government Code §§ 12900 et seq.
b. The person signing this Agreement on behalf of the Grantee certifies under penalty of perjury that the Grantee has, unless exempted, complied with the nondiscrimination program requirements [Government Code § 12990(a)-(f) and California Code of Regulations, Title 2, Section 8103]. (Not applicable to public entities.)

42. OWNERSHIP OF DRAWINGS, PLANS, AND SPECIFICATIONS

The State shall have separate and independent ownership of all drawings, design plans, specifications, notebooks, tracings, photographs, negatives, reports, findings, recommendations, data, software, and memoranda of every description or any part thereof, paid for in whole or in any part with grant funds. Copies thereof shall be delivered to the CIWMB upon request. Grantee agrees, and shall require that its contractors, subcontractors, and vendors agree that the State shall have the full right to use said copies in any manner when and where it may determine without any claim to additional compensation.

43. PATENTS

The Grantee assigns to the CIWMB all rights, title, and interest in and to each invention or discovery that may be capable of being patented, that is conceived of or first actually reduced to practice in the course of or under this Agreement, or with the use of any grant funds. Such assignment shall include assignment of any patents registered with the United States Patent and Trademark Office. Grantee further agrees to cooperate with and assist the CIWMB in the preparation of any patent application. Under certain unusual and very limited circumstance, where to do so would not conflict with the rights of the CIWMB and would serve the public interest, upon written request by the Grantee, the CIWMB may give, at the Executive Director's sole discretion, written consent to the Grantee to retain all or any part of the ownership of these rights.

44. PAYMENT

a. The Budget, if applicable, is attached hereto and incorporated herein by this reference and states the maximum amount of allowable costs for each of the tasks identified in the Work Plan, if applicable, which is attached hereto and incorporated herein by this reference. The CIWMB shall reimburse the Grantee for only the work and tasks specified in the Work Plan or the Grant

Agreement at only those costs specified in the Budget and incurred in the term of the Agreement.

b. The Grantee shall carry out the work described on the Work Plan or in the Grant Application in accordance with the Budget, and shall obtain the Grant Manager's written approval of any changes or modifications to the Work Plan, approved project as described in the Grant Agreement or the Budget prior to performing the changed work or incurring the changed cost. If the Grantee fails to obtain such prior written approval, the Executive Director, at his or her sole discretion, may refuse to provide funds to pay for such work or costs.

c. The Grantee shall request reimbursement in accordance with the procedures described in the Procedures and Requirements.

d. Ten percent (10%) will be withheld from each Payment Request and paid at the end of the grant term, when all reports and conditions stipulated in this Agreement have been satisfactorily completed. Failure by the Grantee to satisfactorily complete all reports and conditions stipulated in this Agreement may result in forfeiture of any such funds withheld pursuant to the CIWMB's ten percent (10%) retention policy.

e. Lodgings, Meals and Incidentals: Grantee's Per Diem eligible costs are limited to the amounts authorized in the California *State Administrative Manual* (contact your Grant Manager for more information).

f. Payment will be made only to the Grantee.

g. Reimbursable expenses shall not be incurred unless and until the Grantee receives a Notice to Proceed as described in Exhibit B — Procedures and Requirements.

45. PERSONAL JURISDICTION

The Grantee consents to personal jurisdiction in the State of California for all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties. Native American Tribal Grantees expressly waive tribal sovereign immunity as a defense to any and all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties.

46. PERSONNEL COSTS

If there are eligible costs pursuant to Exhibit B, Procedures and Requirements, any personnel expenditures to be reimbursed with grant funds must be computed based on actual time spent on grant-related activities and on the actual salary or equivalent hourly wage the employee is paid for his or her regular job duties, including a proportionate share of any benefits to which the employee is entitled, unless otherwise specified in the Procedures and Requirements (Exhibit B). .

47. REAL AND PERSONAL PROPERTY ACQUIRED WITH GRANT FUNDS

a. All real and personal property, including equipment and supplies, acquired with grant funds shall be used by the Grantee only for the purposes for which the CIWMB approved their acquisition for so long as such property is needed for such purposes, regardless of whether the Grantee continues to receive grant funds from the CIWMB for such purposes. In no event shall the length of time during which such property, including equipment and supplies, acquired with grant funds, is used for the purpose for which the CIWMB approved its acquisition be less than five (5) years after the end of the grant term, during which time the property, including equipment and supplies, must remain in the State of California.

b. Subject to the obligations and conditions set forth in this section, title to all real and personal property acquired with grant funds, including all equipment

and supplies, shall vest upon acquisition in the Grantee. The Grantee shall execute all documents required to provide the CIWMB with a purchase money security interest in any real or personal property, including equipment and supplies, and it shall be a condition of receiving this grant that the CIWMB shall be in first priority position with respect to the purchase money security interest on any such property acquired with the grant funds, unless pre-approved in writing by the Grant Manager that the CIWMB will accept a lower priority position with respect to the purchase money security interest on the property. Grantee shall inform any lender(s) from whom it is acquiring additional funding to complete the property purchase of this grant condition.

c. The Grantee may not transfer Title to any real or personal property, including equipment and supplies, acquired with grant funds to any other entity without the express authorization of the CIWMB.

d. The CIWMB will not reimburse the Grantee for the acquisition of equipment that was previously purchased with CIWMB grant funds, unless the acquisition of such equipment with grant funds is pre-approved in writing by the Grant Manager. In the event of a question concerning the eligibility of equipment for grant funding, the burden will be on the Grantee to establish the pedigree of the equipment.

48. RECYCLED-CONTENT CERTIFICATION

The Grantee shall certify the minimum, if not the exact, percentage of postconsumer and secondary material in the products, materials, goods, and supplies purchased with grant funds. This certification shall be provided to the CIWMB on the Recycled Content Certification Form (CIWMB 74G) available at www.ciwmb.ca.gov/Grants/Forms/CIWMB074G.doc.

49. RECYCLED-CONTENT PAPER

All documents submitted by the Grantee must be printed double-sided on recycled-content paper containing one hundred percent (100%) post-consumer fiber. Specific pages containing full-color photographs or other ink-intensive graphics may be printed on photographic paper.

50. RECYCLED-CONTENT PRODUCT PROCUREMENT

In the performance of this Agreement, for purchases made with grant funds, the Grantee shall purchase recycled-content products (RCP), as defined by the State Agency Buy Recycled Campaign (SABRC) minimum recycled-content requirements, see www.ciwmb.ca.gov/BuyRecycled/StateAgency/. If the Grantee cannot purchase RCPs, the Grantee must document why it was unable to comply with this requirement and request written pre-approval from its Grant Manager to deviate from this policy.

51. REDUCTION OF WASTE

In the performance of this Agreement, grantee shall take all reasonable steps to ensure that materials purchased or utilized in the course of the project are not wasted. Steps should include, but not be limited to: the use of used, reusable, or recyclable products; discretion in the amount of materials used; alternatives to disposal of materials consumed; and, the practice of other waste reduction measures where feasible and appropriate.

52. REDUCTION OF WASTE TIRES

Unless otherwise provided for in this Agreement, in the performance of this Agreement, for all purchases made with grant funds, including, but not limited to, equipment and tire-derived feedstock, the Grantee shall purchase and/or process only California waste tires and California waste tire-derived products. As a condition of final payment under this Agreement, the Grantee must provide documentation substantiating the source of the tire materials used during the performance of this Agreement to the Grant Manager.

53. REMEDIES

Unless otherwise expressly provided herein, the rights and remedies hereunder are in addition to, and not in limitation of, other rights and remedies under this Agreement, at law or in equity, and exercise of one right or remedy shall not be deemed a waiver of any other right or remedy.

54. RESOLUTION

A county, city, district, or other local public body must provide the CIWMB with a copy of a resolution, order, motion, or ordinance of the local governing body, which by law has authority to enter into an agreement, authorizing execution of this Agreement and designating the job title of the individual authorized to sign on behalf of the local public body.

55. SELF ASSESSMENT CHECKLIST

The Grantee shall submit with its Final Report a completed and signed Self Assessment Checklist Form, which is designed to aid the Grantee and the CIWMB in measuring compliance with administrative requirements.

56. SEVERABILITY

If any provisions of this Agreement are found to be unlawful or unenforceable, such provisions will be voided and severed from this Agreement without affecting any other provision of this Agreement. To the full extent, however, that the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement be deemed to be a valid and binding agreement enforceable in accordance with its terms.

57. SITE ACCESS

The Grantee shall allow the State to inspect sites at which grant funds are expended and related work being performed at any time during the performance of the work and for ninety (90) days after completion of the work, or until all issues related to the grant project have been resolved.

58. STOP WORK NOTICE

Immediately upon receipt of a written notice from the Grant Manager to stop work, the Grantee shall cease all work under this Agreement.

59. SWEATFREE CODE OF CONDUCT

a. All Grantees contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies obtained with Grant funds have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Grantee further declares under penalty of perjury that it adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The Grantee agrees to cooperate fully in providing reasonable access to the Grantee's records, documents, agents or employees, or premises if reasonably required by authorized officials of the CIWMB or its agents, the Department of Industrial Relations, or the Department of Justice to determine the Grantee's compliance with the requirements under paragraph (a).

60. TERMINATION FOR CAUSE

The CIWMB may terminate this Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the CIWMB may proceed with the work in any manner deemed proper by the

CIWMB. All costs to the CIWMB shall be deducted from any sum due the Grantee under this Agreement. Termination pursuant to this section may result in forfeiture by the Grantee of any funds retained pursuant to the CIWMB's ten percent (10%) retention policy.

61. TIME IS OF THE ESSENCE

Time is of the essence to this Agreement.

62. TOLLING OF STATUTE OF LIMITATIONS

The statute of limitations for bringing any action, administrative or civil, to enforce the terms of this Agreement or to recover any amounts determined to be owing to the CIWMB as the result of any audit of the grant covered by this Agreement shall be tolled during the period of any audit resolution, including any appeals by the Grantee to the Executive Director and/or the Board.

63. UNION ORGANIZING

By signing this Agreement, the Grantee hereby acknowledges the applicability of Government Code §§ 16645, 16645.2, 16645.8, 16646, 16647, and 16648 to this Agreement and hereby certifies that:

a. No grant funds disbursed by this grant will be used to assist, promote, or deter union organizing.

b. If the Grantee makes expenditures to assist, promote, or deter union organizing, the Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

64. UNRELIABLE LIST

Prior to authorizing a contractor(s) to commence work under this Grant, the Grantee shall submit to the CIWMB a declaration from the contractor(s), signed under penalty of perjury, stating that within the preceding three (3) years, none of the events listed in Section 17050 of Title 14, California Code of Regulations, Natural Resources, Division 7, has occurred with respect to the contractor(s). See www.ciwmb.ca.gov/Regulations/Title14/ch1.htm#ch1a5. If a contractor is placed on the CIWMB Unreliable List after award of this Grant, the Grantee may be required to terminate that contract.

65. VENUE/CHOICE OF LAW

a. All proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder shall be held in Sacramento County, California. The parties hereby waive any right to any other venue. The place where the Agreement is entered into and place where the obligation is incurred is Sacramento County, California.

b. The laws of the State of California shall govern all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder.

66. WAIVER OF CLAIMS AND RECOURSE AGAINST THE STATE

The Grantee agrees to waive all claims and recourse against the State, its officials, officers, agents, employees, and servants, including, but not limited to, the right to contribution for loss or damage to persons or property arising out of, resulting from, or in any way connected with or incident to this Agreement. This waiver extends to any loss incurred attributable to any activity undertaken or omitted pursuant to this Agreement or any product, structure, or condition created pursuant to, or as a result of, this Agreement.

67. WORK PRODUCTS

The Grantee must provide the CIWMB with copies of all final products identified in the Work Plan.

68. WORKERS' COMPENSATION/LABOR CODE	The Grantee is aware of Labor Code section 3700, which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the Labor Code, and the Grantee affirms to comply with such provisions before commencing the performance of the work of this Agreement.