

**AGREEMENT REGARDING ACCESS TO AND USE OF REAL PROPERTY  
IN ORDER TO IMPLEMENT AND MAINTAIN A HABITAT RESTORATION PROJECT**

This Access Agreement (“Agreement”) is entered into by American Rivers, Inc., a nonprofit corporation organized and existing under law of the District of Columbia (“the Nonprofit Organization”), and Contra Costa County Flood Control & Water Conservation District, a body corporate and politic created under laws of the State of California (“the District”).

**PERTINENT FACTS**

- A. The District owns certain real property (“the Property”), located in City of Brentwood, Contra Costa County, California, as shown in Attachment A, which is incorporated by reference and attached.
- B. The Nonprofit Organization is an organization exempt from federal income tax under Section 501(c)(3) of the United States Internal Revenue Code and whose purposes are consistent with Division 21 of the California Public Resources Code.
- C. The District has willingly partnered with the Nonprofit Organization to implement a multi-benefit flood management and ecosystem restoration project, the Three Creeks Parkway Restoration Project (“the Project”). The purpose of the Project is to convert a denuded flood control channel into a healthy riparian corridor without compromising the channel’s abilities to safely convey floodwaters.
- D. The Nonprofit Organization has been awarded a grant from the Sacramento-San Joaquin Delta Conservancy (“the Conservancy”), an agency of the State of California established under Division 22.3 of the Public Resources Code, to undertake the Project on the Property. The implementation, maintenance, and completion of the Project are detailed in the grant agreement between the Conservancy and the Nonprofit Organization (“Grant Agreement”), a copy of which is attached to this Agreement as Attachment B.
- E. In order to insure implementation, maintenance, and completion of the Project, the Nonprofit Organization must also enter into this Agreement to protect the public interest in the Project, and to ensure that the Nonprofit Organization has permission to implement, monitor and maintain the Project on the Property consistent with the Grant Agreement.
- F. The District certifies that there are no other encumbrances on or rights affecting the Property that would prevent or adversely impact Project implementation.

In light of the Pertinent Facts above, **THE NONPROFIT ORGANIZATION AND THE DISTRICT AGREE AS FOLLOWS:**

1. **DURATION.** This Agreement shall take effect when fully executed, on the date last signed below, and shall run until 2037 unless the Agreement is terminated earlier by mutual agreement in writing by the parties, with the written consent of the Executive Officer of the Conservancy. The Agreement may only be canceled if an act of war or

## Access Agreement

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act of god, such as earthquakes, floods, and other natural disasters, renders performance of this Agreement or the Project impossible.

2. **AUTHORITY TO PROCEED**. The Nonprofit Organization shall implement, monitor, and maintain the Property in fulfillment of the Project as described in the Grant Agreement. The Nonprofit Organization may assign without novation the responsibility to implement, monitor, and maintain the Project on the Property.
3. **DISTRICT MAINTENANCE OF THE PROJECT**. Upon completion of Project implementation, and following the revegetation establishment period, the District agrees to maintain the Project long term in accordance with its obligations under the Three Creeks Operation and Maintenance Manual that Nonprofit Organization is to execute per the Grant Agreement. In the event that the Project is not maintained in accordance with the Three Creeks Operation and Maintenance Manual, as set forth in this paragraph, the Nonprofit Organization or the Conservancy is authorized to maintain the Project during the duration of this Agreement.
4. **DISTRICT'S USE OF THE PROPERTY**. The Property is a corridor primarily used for flood management. Except as provided in this paragraph, the District reserves the right to use the Property in any manner, provided that its use does not unreasonably interfere with the Nonprofit Organization's rights under this Agreement or the Project. During the term of this Agreement, the District shall use the Property in a manner consistent with the purposes and the functioning of the Project. Notwithstanding the foregoing, this Agreement does not restrict the District's ability to respond to regulatory orders regarding flood management by agencies with jurisdiction on the Property, or limit flood management activities on the Property that the District determines are necessary to protect the public health, safety and welfare.
5. **CONSTRUCTIVE NOTICE**. The terms, conditions and restrictions of this Agreement shall be binding upon, and inure to, the benefit of the parties hereto and their personal representatives, heirs, successors, including any purchasers and subsequent owners or occupants of the Property, and assigns and shall continue for the duration of this Agreement. The District shall notify prospective buyers, lessees, or operators of the Property of this Agreement.
6. **ACCESS BY THE NONPROFIT ORGANIZATION**. The Nonprofit Organization shall have access to the Property under the terms and conditions of a District encroachment permit to accomplish the purposes of this Agreement, including monitoring, during the entire term of this Agreement. The District shall issue the encroachment permit to the Nonprofit Organization prior to the commencement of construction, upon the Nonprofit Organization's agreement in writing to District's conditions. Permit issuance shall not be unreasonably withheld.
7. **INSPECTION**. The Nonprofit Organization and the District shall allow the Conservancy, its agents or employees, to visit the Project site at agreed-upon intervals, but not less than once every year, during the term of this Agreement to

**Access Agreement**

determine whether the site is being restored and maintained in a manner consistent with the Grant Agreement.

- 8. **LIABILITY.** The Nonprofit Organization shall be responsible for, indemnify and save harmless the District, its officers, agents, and employees from any and all liabilities, claims, demands, damages or costs liabilities arising from Nonprofit Organization's acts or omissions under this Agreement that are connected with or incident to the Project on the Property, except for active negligence of the District, its officers, agents or employees. The duty to indemnify and save harmless includes the duty to defend as set forth in Civil Code Section 2778. Nonprofit Organization's obligation to defend and indemnify District shall not include any amounts paid an Indemnified Party by an insurer as compensation for a claim or any amounts paid by a third party as payment for the claim.

**9. AUTHORIZING SIGNATURES**

**IT IS SO AGREED,**

CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

AMERICAN RIVERS, INC.

By: \_\_\_\_\_  
Brian M. Balbas  
Chief Engineer

By:   
Wm. Robert Irvin  
President and CEO

Date: \_\_\_\_\_

Date: 2/13/19

By:   
Kristin May  
Chief Financial Officer

Date: 2/13/19

Approved as to Form:

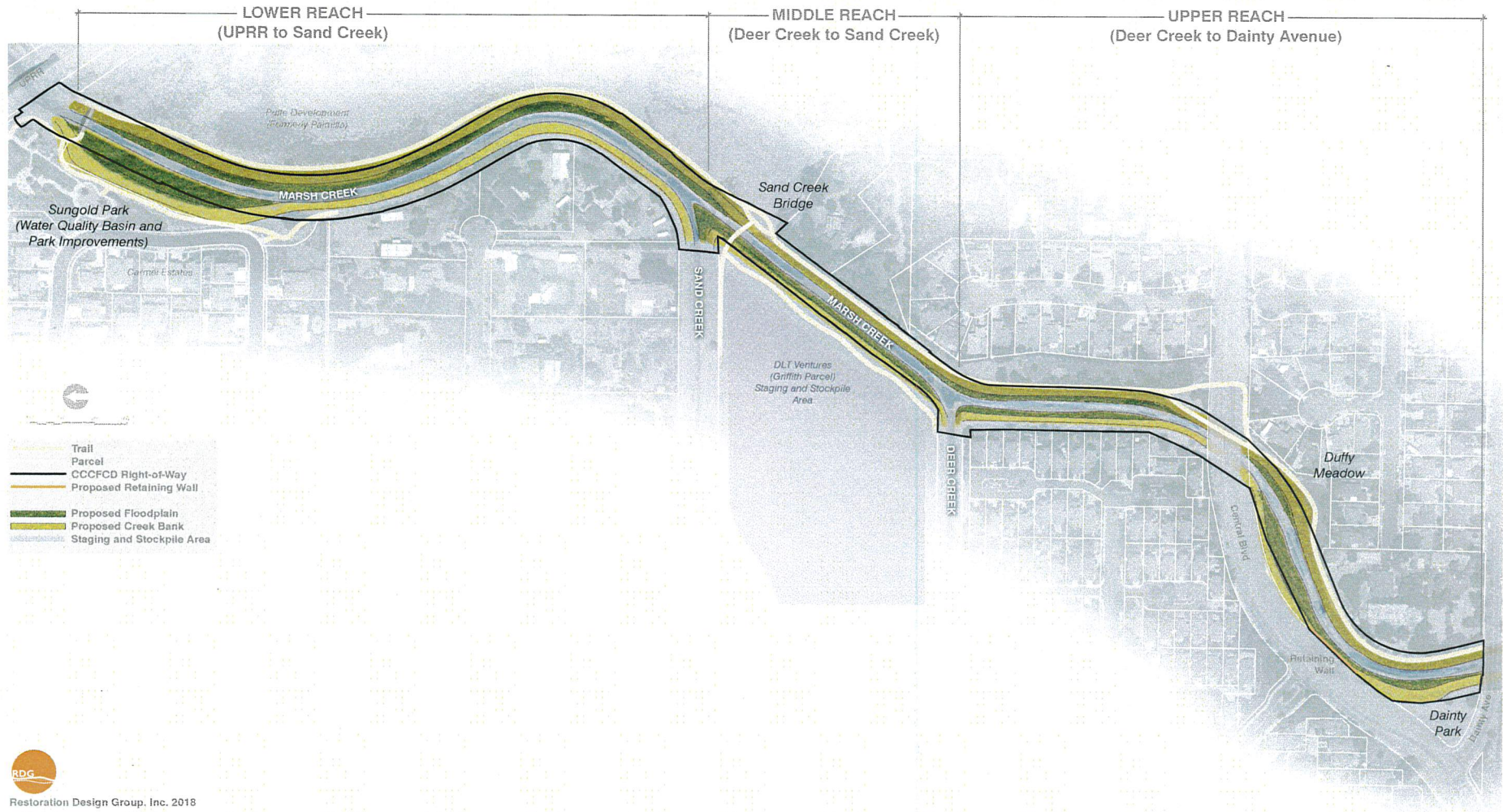
\_\_\_\_\_  
Sacramento San Joaquin Delta Conservancy

Date: \_\_\_\_\_

**Attachments: A & B**

**ATTACHMENT A**

**Map of the Property**



# THREE CREEKS PARKWAY RESTORATION PROJECT

12.13.18



**ATTACHMENT B**

**Grant Agreement**



SACRAMENTO - SAN JOAQUIN

# DELTA CONSERVANCY

A California State Agency

## CONSERVANCY BOARD

Jim Provenza, Chair  
Yolo County

Dolly Sandoval, Vice-Chair  
Appointed Public Member

Michael Cohen  
California Department of  
Finance

Senator Bill Dodd  
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California Natural Resources  
Agency

Katherine Miller  
San Joaquin County

Karen Mitchoff  
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Don Nottoll  
Sacramento County

Elizabeth Patterson  
Solano County

Dan Taylor  
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## LIAISON ADVISORS

Charlotte Ambrose  
National Marine  
Fisheries Service

Pablo Arroyave  
U.S. Bureau of Reclamation

Steve Chappell  
Suisun Resource  
Conservation District

Matt Gerhart  
California Coastal  
Conservancy

Martha Ozonoff  
Yolo Basin Foundation

Steve Goldbeck  
San Francisco Bay  
Conservation and  
Development Commission

Paul Souza  
U.S. Fish and Wildlife  
Service

Stu Townsley  
U.S. Army Corps of  
Engineers

Michael Villines  
Central Valley Flood  
Protection Board

Erik Vink  
Delta Protection Commission

June 28, 2017

Kristin May  
Chief Financial Officer  
American Rivers, Inc.  
1101 14<sup>th</sup> Street NW, Suite 1400  
Washington, DC 20005

Dear Ms. May:

Enclosed, please find the fully executed grant agreement # Prop1-2015-Y1-009 between the Sacramento San Joaquin Delta Conservancy and American Rivers, Inc. This includes the executed Grant Agreement with exhibits and supporting documents.

Please contact me at (916) 375-2091 if you have any questions regarding this contract or correspondence.

Sincerely,

Brandon Chapin, Contract Analyst  
Sacramento-San Joaquin Delta Conservancy  
1450 Halyard Drive, Suite 6  
West Sacramento, CA 95691

Enclosure



SACRAMENTO - SAN JOAQUIN

# DELTA CONSERVANCY

A California State Agency

## ECOSYSTEM RESTORATION AND WATER QUALITY GRANT PROGRAM

GRANT AGREEMENT NUMBER: Prop1-2015-Y1-009

1. This Grant Agreement is entered into between the State agency (Grantor) and the Grantee named:	
Grantor:	Sacramento-San Joaquin Delta Conservancy
Grantee:	American Rivers
2. The performance term of this Grant Agreement: (Shall not become effective until both Grantee and Grantor provide original signatures and fully executed Grant Agreement is received by the Grantor).	
Effective Start Date:	May 1, 2017 (Or upon Grantor approval date whichever is later.)
Grant End Date:	May 1, 2032 (For Category 2 grants only, grant end date will be 15 years after the effective start date.)
Funding End Date:	May 1, 2020 (For all grants, funding end date is the end of the billing period and must be three years or less from the effective start date.)
3. The maximum amount of this Agreement is:	
Amount not to Exceed:	\$ 836,409
	Eight hundred thirty six thousand, four hundred nine dollars and no cents
4. Pursuant to CALIFORNIA WATER CODE 79738, Grantor is authorized to enter into a Grant Agreement ("Agreement") and to make an award to the Grantee for the purposes set forth herein. Grantor and Grantee ("the parties") accept the grant on the terms and conditions of following exhibits, which are by this reference made part of the Agreement. Accordingly, the parties hereby agree as follows:	
Exhibit A – Scope of Work	11 Page(s)
Exhibit A, Attachment 1 – Project Map	2 Page(s)
Exhibit A, Attachment 2 – Covered Actions Checklist	3 Page(s)
Exhibit B – Budget Detail and Payment Provisions	4 Page(s)
Exhibit B, Attachment 1 – Budget Summary	2 Page(s)
Exhibit B, Attachment 2 – Sample Invoice	1 Page(s)
Exhibit C – General Terms and Conditions	3 Page(s)
Exhibit D – Special Terms and Conditions	3 Page(s)
Exhibit E – Protection of Confidential and Sensitive Information	2 Page(s)
Exhibit E, Attachment 1 – Non-Disclosure Certificate	1 Page(s)
Exhibit F – Grantee Certification Clauses	4 Page(s)
Exhibit G– Reports (Quarterly, Annual, and Final)	8 Page(s)
Exhibit H– Grantee's Release	1 Page(s)
Exhibit I – State Agency's Buy Recycled Campaign (SABRC)	3 Page(s)

IN WITNESS WHEREOF, the parties hereto have executed this Grant Agreement.

### GRANTEE

GRANTEE'S NAME: (if other than an individual, state whether a corporation, partnership, etc.)

American Rivers, Inc.

BY: (Authorized Signature)

DATE SIGNED:

6/13/17

PRINTED NAME AND TITLE OF PERSON SIGNING:

Kristin M. May, Chief Financial Officer

ADDRESS:

1101 14<sup>th</sup> Street, NW, Suite 1400, Washington, DC 20005

### GRANTOR (STATE OF CALIFORNIA)

AGENCY NAME:

Sacramento-San Joaquin Delta Conservancy

BY: (Authorized Signature)

DATE SIGNED:

6/27/17

PRINTED NAME AND TITLE OF PERSON SIGNING:

Campbell Ingram, Executive Director

ADDRESS:

1450 Halyard Drive, Suite 6, West Sacramento, CA 95691



## **EXHIBIT A** **SCOPE OF WORK**

### **Three Creeks Parkway Restoration Project**

#### **I. BACKGROUND**

The Ecosystem Restoration and Water Quality Grant Program was developed in response to the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1). Proposition 1 amended the California Water Code (CWC) to add, among other articles, Section 79738, authorizing the Legislature to appropriate funds to the Sacramento-San Joaquin Delta Conservancy (Conservancy / Grantor) to fund multi-benefit ecosystem and watershed protection and restoration projects that benefit the Delta.

#### **II. AUTHORITY**

To further the goals of Proposition 1, Grantor is entering into this Grant Agreement (Agreement) with American Rivers (Grantee) to provide funding for the completion of the activities set forth in this Agreement. Grantee is a Nonprofit, validly existing, and in good standing under the laws of California. Grantee has full power and authority to transact the business in which it is engaged and full power, authority, and legal right to execute and deliver this Agreement and incur and perform its obligations hereunder.

Although the grantee as authorized by the Agreement may utilize other entities to complete certain tasks identified within this Scope of Work (Exhibit A), Grantee is ultimately responsible for the completion of all activities set forth herein. Grantee's use of the Grant funds is limited to those expenditures necessary to implement the Project and that are eligible under applicable State of California law. Furthermore, Grantee's expenditure of Grant funds must be in accordance with Budget Detail and Payment Provisions (Exhibit B) and Budget Summary (Exhibit B, Attachment 1), and including all other Exhibits set forth within this agreement. Grantee may not transfer Grant funds between or among Budget line items without written approval from the Grantor.

#### **III. TERM OF AGREEMENT**

This Agreement shall run from its effective date through May 1<sup>st</sup>, 2032 (the "grant end date") unless otherwise terminated or amended as provided in this agreement. However, the project implementation and billing service period shall run through May 1<sup>st</sup>, 2020 (the "funding end date"). All work for which reimbursement of approved expenditures is requested shall end by the funding end date.

#### **IV. PROJECT STATEMENT**

Overview: Grantee and its partner the Contra Costa County Flood Control and Water Conservation District (District) propose a multi-benefit ecosystem restoration project at the confluence of Marsh, Sand, and Deer Creeks (Three Creeks) to convert a denuded flood control channel into a healthy riparian corridor. The Three Creeks Parkway Restoration Project will restore native vegetation on 12.5 acres along nearly a mile of Marsh Creek, and floodplain and riparian habitat along 4,000 linear feet of creek. The project team's overall goal is to improve habitat, flood management, water quality, and ecosystem resilience in the Marsh Creek watershed. This project is an early step in a larger effort to restore and improve habitat along the entire length of Marsh Creek from Mount Diablo to the Delta. The project also has the support of several other groups including the Friends of Marsh Creek Watershed (FOMCW), and the City of Brentwood (City).

1. Objectives(s): Specific objectives of this project are:
  - a. Restore floodplain and native vegetation along 4,000 linear feet of Marsh Creek between Dainty Avenue and the Union Pacific Railroad.
  - b. Improve habitat by restoring 12.5 weedy, ruderal and treeless acres with native vegetation to enhance the creek's ecosystem, including 3.6 acres of frequently inundated floodplain (seasonal wetland), 5.2 acres of woody riparian vegetation, and 5.3 acres of grasslands and native scrub that will provide habitat for several species covered by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP).

2. **Project Description:**
  - a. **Location:** The project is located in the Marsh Creek watershed in Contra Costa County. The project site falls within the city limits of Brentwood. See Project Map (Exhibit A, Attachment 1).
3. **Equipment:**

No equipment will be used during the term of this Agreement.
4. **Project Implementation:** Grantee will complete the tasks listed below and as stated in Grantee's proposal approved in the Fiscal Year 2015-16 Proposition 1 Grant Program solicitation process.

**Task 1) Grant Management, Administration and Reporting**

**Task 1a – Land Tenure and Long Term Management and Maintenance.** See Section 8 below. Before funding is disbursed, Grantee must provide the Grantor with land tenure documentation for the useful life of the project. The Grantee does not own the land on which the project is being implemented and must provide a Landowner Access Agreement signed by the Landowner and Grantee, approved by the Grantor, and recorded at the County Recorder's Office in which the project is located.

The Grantee is required to ensure that the project is maintained in conformance with the terms of this Grant Agreement for at least 15 years as required by the State General Obligation Bond Law, and in accordance with the Long Term Management and Maintenance plan described below in Section 7.

**Task 1b – Delta Plan consistency.** See section 12 (Delta Plan Consistency) below. This project is a covered action pursuant to the Delta Plan. The Grantor will not disburse construction funds until the project is certified as consistent with the Delta Plan.

**Task 1c – Quarterly Invoices.** The Grantee shall refer to Budget Detail and Payment Provisions (Exhibit B), to prepare and submit Quarterly Invoices to the Grantor.

**Task 1d – Quarterly Progress Reports.** The Grantee shall refer to Section V. Reports, and Reports (Exhibit H) to prepare and submit Quarterly Progress Reports to the Grantor. A "Sample Quarterly Progress Report Form" is provided.

**Task 1e – EcoAtlas Data Upload.** The Grantee shall create a new project record in EcoAtlas and upload any relevant project data (e.g., project map) to EcoAtlas prior to submitting the first Quarterly Report.

**Task 1f – Annual Progress Reports.** The Grantee shall refer to Section V. Reports, and Reports (Exhibit H) to prepare and submit Annual Progress Reports to the Grantor. A "Sample Annual Progress Report Form" is provided.

**Task 1g and Task 1h – Draft Final Report and Final Report.** The Grantee shall refer to Section V. Reports, and Reports (Exhibit H) to prepare and submit Draft and Final Reports to the Grantor.

**Task 2) CEQA and Permits**

In September, 2016, the District, the lead agency, certified the mitigated negative declaration for the project and made the required lead agency CEQA findings. The Grantor made its required responsible agency findings and approved funding for the project on November 21, 2016. The lead agency has not yet approved the project or filed its notice of determination. No funds will be disbursed pursuant to this agreement until the District approves the project. The District shall submit verification of this approval by May 1<sup>st</sup>, 2018.

The Grantee shall retain a consultant to assist the District in developing permit applications. Permits required for this project include: a Clean Water Act (Section 404) permit from the Army Corps of Engineers, a Lake or Streambed Alteration Agreement (Section 1600) from the California Department of Fish & Wildlife, a General Water Quality Certification for Small Habitat Restoration Projects (Section 401) permit from the State Water Resources Control Board, a Construction Activities (Storm Water General) permit from the State Water Resources Control Board, a Grading Permit from the city or county, a Floodway & Hydrological analysis from the Flood Control District, an Encroachment Permit from the East Bay Regional Park District.

**Task 3) Detail Design**

Task 3a – Subcontractor Selection. The Grantee or the District will select subcontractors for design development, Construction, Revegetation, and Trail Relocation. The Grantee and the District shall select subcontractors by a process that complies with the terms of this grant agreement and all applicable State and Federal regulations.

Task 3b – 30% Conceptual Design. The Grantee shall work with the District and appropriate subcontractor to refine the previously completed initial conceptual design and develop it into a 35% Conceptual Design.

Task 3c – 60% Conceptual Design. The Grantee shall work with the District and appropriate subcontractor to refine the 35% Conceptual Design from Task 3a and develop it into a 60% Conceptual Design.

Task 3d – Detailed Planting Plan. The Grantee shall work with the Vegetation Subcontractor to develop a Planting Plan that will use best available science and management practices to dictate how the native vegetation will be installed along 4,000 linear feet of creek bank. The Planting Plan will specify the number and approximate location of plants per species, the form in which to install the plants, irrigation and/or management needs, and the installation schedule. All conservation practices will be implemented and management plans developed according to Natural Resources Conservation Service standards.

Task 3e – Final Design. The Grantee shall work with the District and appropriate subcontractor to refine the 60% Conceptual Design from Task 3b and develop it, along with the planting plan from Task 3c, into a Final Design.

Task 3f – Bid Package. The Grantee will prepare a bid package that will guide the award of subcontracts to qualified construction subcontractors to perform the required activities called for in the Final Design from Task 3d. The Grantee and the District shall select subcontractors by a process that complies with the terms of this grant agreement and all applicable State and Federal regulations.

**Task 4) Construction**

Task 4a – Widen 4,000 Linear Feet of Chanel and Construct 30-60ft Wide Floodplain Bench. The Grantee or District shall retain a construction contractor, selected according to the Bid Package from Task 3e, to widen 4,000 linear feet of channel and excavate a new floodplain bench. This floodplain bench will be between 30 and 60 feet in width. Construction will be completed and a report of all construction activities conducted, and deliverables completed, by the Grantee or subcontractors will be submitted to the Delta Conservancy Grant Manager as part of the following quarterly report.

Task 4b - Grade and create new trail crossings. The Grantee or the District shall retain a construction contractor, selected according to the Bid Package from Task 3e, to grade creek banks and create sites for new trail crossings under where Central Blvd and Dainty Ave cross Marsh Creek.

**Task 5) Revegetation**

Task 5a – Revegetate 12.5 acres with Native Vegetation. The Grantee or the District shall retain a revegetation contractor, selected according to the Bid Package from Task 3e, to revegetate 12.5 acres with native vegetation including 300 15-gallon trees, 11,000 one-gallon plants, 2,000 five-gallon plants, and 30,000 square yards of native hydro-seed.

**Task 6) Public Outreach and Agency Coordination**

Task 6a – Public Presentations in Brentwood and Oakley. The Grantee shall hold three presentations about the project at public meetings in Brentwood and Oakley.

Task 6b – Installation of Interpretive Signs. The Grantee shall install two interpretive signs along the creek. Signs will include acknowledgement in compliance with the acknowledgement section of this grant agreement.

**Task 7) Monitoring and Maintenance**

Task 7a – Annual Salmon Counts. The Grantee shall, in partnership with volunteers and staff of the Friends of Marsh Creek Watershed, conduct salmon spawner surveys based on protocols outlined in the California Department of Fish and Wildlife 'California Salmonoid Stream Habitat Restoration Manual'. Salmon counts will take place after heavy rains between Oct 1<sup>st</sup> and Feb 28<sup>th</sup> in each funding year. Survey reports will be submitted to the Grantor Grant Manager as part of the following quarterly report.

Task 7b – Seasonal Water Quality Sampling. The Grantee shall, in partnership with volunteers and staff of the Friends of Marsh Creek Watershed, conduct seasonal water quality sampling at five (5) locations along the creek where Friends of Marsh Creek Watershed staff and volunteers have historically collected such data. Sampling shall occur during spring and fall of each funding year. Water quality sampling parameters shall include dissolved oxygen, pH, temperature, turbidity, and conductivity. Results from these sampling efforts will be submitted to the Grantor Grant Manager as part of the following quarterly report.

Task 7c – Vegetation Survival Monitoring and Maintenance. The Grantee shall oversee a subcontractor to conduct vegetation transects and photo monitoring every spring of the funding period, after the project is implemented, to monitor survival of plantings. Success criteria will be based on the percent survival and percent cover of plants. These percentages will be based on reference sites along Marsh Creek and will consider flood conveyance requirements. If necessary, replacement plants will be installed to meet success criteria during the three years after initial project installation. Results from these monitoring and maintenance efforts will be submitted to the Grantor Grant Manager as part of the following quarterly report.

Task 7d – Long-term Maintenance Agreement. The Grantee shall draft and circulate the Three Creeks Operation and Maintenance Manual (Manual) to the District, the City of Brentwood, and the East Bay Regional Park District. Editing and consultation on the Manual will continue until all parties agree to the terms and the Manual is finalized. The final Manual will be submitted to the Grantor Grant Manager as part of the final annual report.

Schedule and List of Deliverables: Any conditions that must be met before a task can be undertaken or funded should be indicated in the Schedule and List of Deliverables table below. (e.g., no construction until Delta Plan consistency determined).

<u>Task</u>	<u>Task Title</u>	<u>Deliverables and Key Project Milestones</u>	<u>Estimated Completion Dates</u>	<u>Conditions</u>
1	Grant Management, Administration and Reporting	<ul style="list-style-type: none"> <li>a. Land Tenure Agreement</li> <li>b. Delta Plan Consistency</li> <li>c. Quarterly Invoices</li> <li>d. Quarterly Progress Reports</li> <li>e. EcoAtlas Data Upload</li> <li>f. Annual Progress Reports</li> <li>g. Draft Final Report</li> <li>h. Final Report</li> </ul>	<ul style="list-style-type: none"> <li>a. May 2017</li> <li>b. Prior to disbursement of funds.</li> <li>c. Not more frequently than quarterly in arrears (see Exhibit B).</li> <li>d. Within thirty (30) days following each quarterly month following Agreement execution through final report deliverable.</li> <li>e. To be included with the first Quarterly Report.</li> <li>f. Within thirty (30) days following each annual cycle.</li> <li>g. Due thirty (30) days prior to funding end date</li> <li>h. Due thirty (30) days post funding end date</li> </ul>	<ul style="list-style-type: none"> <li>a. <u>Land Tenure</u> Land tenure agreement required prior to disbursement of funds requested for Task 1.</li> <li>b. <u>Covered Action</u> This project is a covered action and Certification of Consistency with Delta Plan is required prior to disbursement of construction funds.</li> </ul>
2	Permit Compliance as required	<ul style="list-style-type: none"> <li>a. Proof of Permit Compliance.</li> </ul>	<ul style="list-style-type: none"> <li>a. Due two (2) weeks prior to bid solicitation</li> </ul>	<ul style="list-style-type: none"> <li>a. If the lead agency does not approve the project and file their Notice of Determination with the state clearinghouse by May 1<sup>st</sup>, 2018, or if any lawsuits are brought against the lead agency, this Agreement will be rendered null and terminated.</li> </ul>
3	Detailed design	<ul style="list-style-type: none"> <li>a. Subcontractor Selection</li> <li>b. 30% conceptual design</li> <li>c. 60% designs</li> <li>d. Detailed planting plan</li> <li>e. Final design</li> <li>f. Bid package</li> </ul>	<ul style="list-style-type: none"> <li>a. Prior to work beginning</li> <li>b. Jan 2017</li> <li>c. May 2017</li> <li>d. June 2017</li> <li>e. June 2017</li> <li>f. June 2017</li> </ul>	

4	Construction	<ul style="list-style-type: none"> <li>a. Widen 4,000 linear feet of channel and construct 30-60 foot wide floodplain bench</li> <li>b. Grade and create new trail crossings</li> </ul>	<ul style="list-style-type: none"> <li>a. August 2017</li> <li>b. Sept 2017</li> </ul>	Grantor will not issue construction funds until all permits have been demonstrated to be in place.
5	Revegetation	<ul style="list-style-type: none"> <li>a. Revegetate 12.5 acres with native vegetation</li> </ul>	<ul style="list-style-type: none"> <li>a. Oct 2017</li> </ul>	
6	Public Outreach and Agency Coordination	<ul style="list-style-type: none"> <li>a. Public presentations in Brentwood and Oakley</li> <li>b. Installation of interpretive signs</li> </ul>	<ul style="list-style-type: none"> <li>a. Oct 2018</li> <li>b. Oct 2018</li> </ul>	
7	Monitoring and Maintenance	<ul style="list-style-type: none"> <li>a. Annual salmon counts</li> <li>b. Seasonal water quality sampling at five locations along the creek where FOMCW has historically collected data</li> <li>c. Three years of vegetation monitoring and maintenance to ensure survival of plantings and replacement of failed plantings</li> <li>d. Long-term maintenance agreement between the District, the City of Brentwood, and the East Bay Regional Park District, which maintains a trail through the site</li> </ul>	<ul style="list-style-type: none"> <li>a. Winter 2017, 2018, and 2019</li> <li>b. Spring 2017, fall 2017, spring 2018, fall 2018, spring 2019</li> <li>c. Spring 2018, Spring 2019</li> <li>d. May 2019</li> </ul>	

5. Performance Measure Tracking: Grantee will track performance in accordance with the Performance Measures Table below as approved in the grant proposal and revised with the input of the Conservancy.

Objective	Outcome	Outputs	Related Tasks	Output Completion Dates
1. Increase area and frequency of inundated floodplain and native vegetation along the Marsh Creek flood control channel.	A. Increase in the area and duration of inundation of the excavated area over starting baseline conditions.	1.1 Excavate and widen channel to create 4,000 linear feet of floodplain bench.	1.1 Task 4	1.1 August 2017
		1.2 Reduce bank slope to 3:1 or greater.	1.2 Task 4	1.2 August 2017
2. Create habitat for multiple terrestrial species, including several species covered by the East Contra Costa Habitat Conservation Plan.	A. Increase in the numbers of native plants observed on the project site compared with starting baseline conditions.	2.1 Improve floodplain habitat by installing native vegetation along 4,000 linear feet of Marsh Creek between Dainty Avenue and the Union Pacific Railroad.	2.1 Task 5	2.1 October 2017
	B. Increase in the diversity and abundance of native avian, and plant species occurring on the project site as compared with starting baseline conditions.	2.2 Restore 12.5 acres, including 3.6 acres of frequently inundated floodplain (seasonal wetland), 5.2 acres of woody riparian vegetation, and 5.3 acres of grasslands and native scrub.	2.2 Task 5	2.2 October 2017
3. Improve water quality and create habitat for multiple aquatic species, including several species covered by the East Contra Costa Habitat Conservation Plan.	A. Increase in the abundance of salmon and native aquatic macroinvertebrates occurring in Marsh Creek over starting baseline conditions.	3.1 Maintain water temperatures within established bounds.	3.1 Task 7	3.1 May 2019
		3.2 Conduct annual salmon counts.	3.2 Task 7	3.2 May 2019

6. Monitoring and Assessment: Grantee will conduct monitoring consistent with Grant Guidelines and as provided and approved in the grant proposal unless or until a revised plan is reviewed and approved by the Grantor. An updated plan for monitoring and adaptive management is being developed by the Grantee in consultation with the Delta Stewardship Council as part of the Delta Plan consistency certification. Once finalized and approved by the Grantor, the updated plans will supersede the plan provided in the approved grant application. As described in Data Management section below, all monitoring data must be reported in the State centralized system.
7. Data Management: Wetland and riparian restoration project data shall be uploaded to EcoAtlas. As applicable, all other project data shall be uploaded to EcoAtlas. The first data upload shall include the creation of a project record and will be completed and reported on in the first Quarterly Report submitted to the Grantor Project Manager. Wetland and riparian monitoring data shall be uploaded to statewide data systems, as applicable, in a manner that is compatible and consistent with the Wetland and Riparian Area Monitoring Plan (WRAMP) framework. The project includes water quality monitoring data collection, which shall be collected and reported to the California Environmental Data Exchange Network (CEDEN).

Monitoring data generated by this project will be collected and analyzed by consultants, written up into monitoring reports, distributed to all project partners including the Contra Costa Clean Water Program and the East Contra Costa Habitat Conservation Plan, and posted on the FOMCW website. All GIS shape files and associated data will be uploaded to Data Basin and EcoAtlas.

8. Land Tenure and Long Term Management and Maintenance: The State General Obligation Bond Law limits the use of bond funds to the construction, acquisition, and long-term improvement of capital assets that have an expected useful life of at least fifteen years (section 16727(a)). Before funding is dispersed, Grantee must provide the Grantor with land tenure documentation for the useful life of the project. The Grantee does not own the land on which the project is being implemented and must provide a Landowner Access Agreement signed by the Landowner and Grantee, approved by the Grantor, and recorded at the County Recorder's Office in which the project is located.

The Grantee is required to ensure that the project is maintained in conformance with the terms of this Grant Agreement for at least 15 years as required by the State General Obligation Bond Law, and in accordance with the Long Term Management and Maintenance plan described here:

Long term management and maintenance of the project will be undertaken by the Contra Costa County Water Conservation & Flood Control District in perpetuity. The District is the owner of the property. The Landowner Access Agreement shall require the District to maintain the project in conformance with the Grant Agreement.

9. Adaptive Management: Grantee will develop and implement an Adaptive Management Plan consistent with Grant Guidelines and the Delta Stewardship Council's Adaptive Management Framework, and as provided and approved in the grant proposal unless or until a revised plan is reviewed and approved by the Grantor.

An updated plan for monitoring and adaptive management is being developed by the Grantee. Once finalized and approved by the Grantor, the updated plan will supersede the information provided in the approved application.

10. California Environmental Quality Act (CEQA): In September, 2016, the District, the lead agency, certified the mitigated negative declaration for the project, adopted the Mitigation, Monitoring and Reporting Program (MMRP), and made the required lead agency CEQA findings. The Delta Conservancy made its required responsible agency findings and approved the MMRP on November 21, 2016 (Resolution 2016-016). The grantee must report this compliance with the MMRP in writing as part of the Grantee's quarterly, annual, and final reports to the Grantor as a responsible agency.
11. Other Regulatory Compliance: Grantee will ensure that all permits, licenses, and certifications necessary to implement the Project have been secured prior to construction. The Grantee is solely responsible for ensuring that the Project meets the terms of its environmental compliance. Grantor will not issue construction funds until all permits are in place.

This project will require the following permits to be secured: U.S. Army Corps of Engineers Clean Water Act: Section 404 Permit (anticipated 1/1/2017), California Department of Fish and Wildlife lake or Streambed Alteration Agreement: Section 1600 (anticipated 1/1/2017), State Water Resources Control Board 401 General Water Quality Certification for Small Habitat Restoration Projects Permit (anticipated 1/1/2017), State Water Resources Control Board Construction Activities Storm Water General Permit (anticipated 1/1/2017), City/County Grading Permit (anticipated 1/1/2017), Flood Control District Floodway & Hydrological Analysis (anticipated 10/1/2016), and East Bay Regional Park District Encroachment Permit (anticipated 1/1/2017)(see attached Environmental Compliance Checklist).



12. Delta Plan Consistency: This project is a covered action pursuant to the Delta Plan. The Grantor will not disburse Construction funds until the project is certified as consistent with the Delta Plan.

The Delta Stewardship Council (Council) has been consulted, and a Covered Action Checklist has been completed (see attached Covered Action Checklist, Exhibit A, Attachment 2). The District, as the lead agency will file the certification of consistency in the Council's online system. The certification filed with the Council must allow 30 days from filing the certification with no valid appeals in order to be consistent with the Delta Plan. (See Task 1b).

13. Plan for Signs: The Grantee shall include acknowledgement requirements which include the following disclosure statement in any document, written report, or brochure prepared in whole or in part pursuant to this Agreement (e.g. in posters, reports, publications, signs, presentation, websites, etc.):

"Funding for this project has been provided in full or in part through an Agreement with the Sacramento-San Joaquin Delta Conservancy (Conservancy) pursuant to The Water Quality, Supply, and Infrastructure Improvement Act of 2014 (CWC §79707[g]). The contents of this document do not necessarily reflect the views and policies of the Conservancy, nor does mention of trade names or commercial products constitute endorsement or recommendation of use."

Grantee shall include a provision that incorporates these requirements in each of its subcontracts for work under this Agreement.

Grantee shall notify the Grantor at least ten (10) working days prior to any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by Grantor representatives.

**V. CONTACTS**

The Project Officials during the term of this Agreement are:

<b>Sacramento-San Joaquin Delta Conservancy Project Manager:</b>	<b>American Rivers Project Manager:</b>
<b>Name:</b> Aaron N.K. Haiman, Environmental Scientist <b>Address:</b> 1450 Halyard Drive, Suite 6 West Sacramento, CA 95691 <b>Phone:</b> 916-376-4023 <b>Email:</b> aaron.haiman@deltaconservancy.ca.gov	<b>Name:</b> John Cain, Conservation Director <b>Address:</b> 2150 Allston Way, Suite 320 Berkeley, CA 94704 <b>Phone:</b> 510-809-8010 x3 <b>Email:</b> jcain@amrivers.org

Direct all administrative inquiries to:

<b>Sacramento-San Joaquin Delta Conservancy Grant Manager:</b>	<b>American Rivers Chief Financial Officer:</b>
<b>Name:</b> Jessica O'Connor <b>Address:</b> 1450 Halyard Drive, Suite 6 West Sacramento, CA 95691 <b>Phone:</b> (916) 375-2090 <b>Email:</b> joconnor@deltaconservancy.ca.gov	<b>Name:</b> Kristin May <b>Address:</b> 1101 14 <sup>th</sup> St., NW, Suite 1400 Washington, DC 20005 <b>Phone:</b> 202-347-7550 <b>Email:</b> kmay@amrivers.org

Either party may change the point of contact at any time by providing a ten (10) day advance written notice to the other party.

## VI. REPORTS

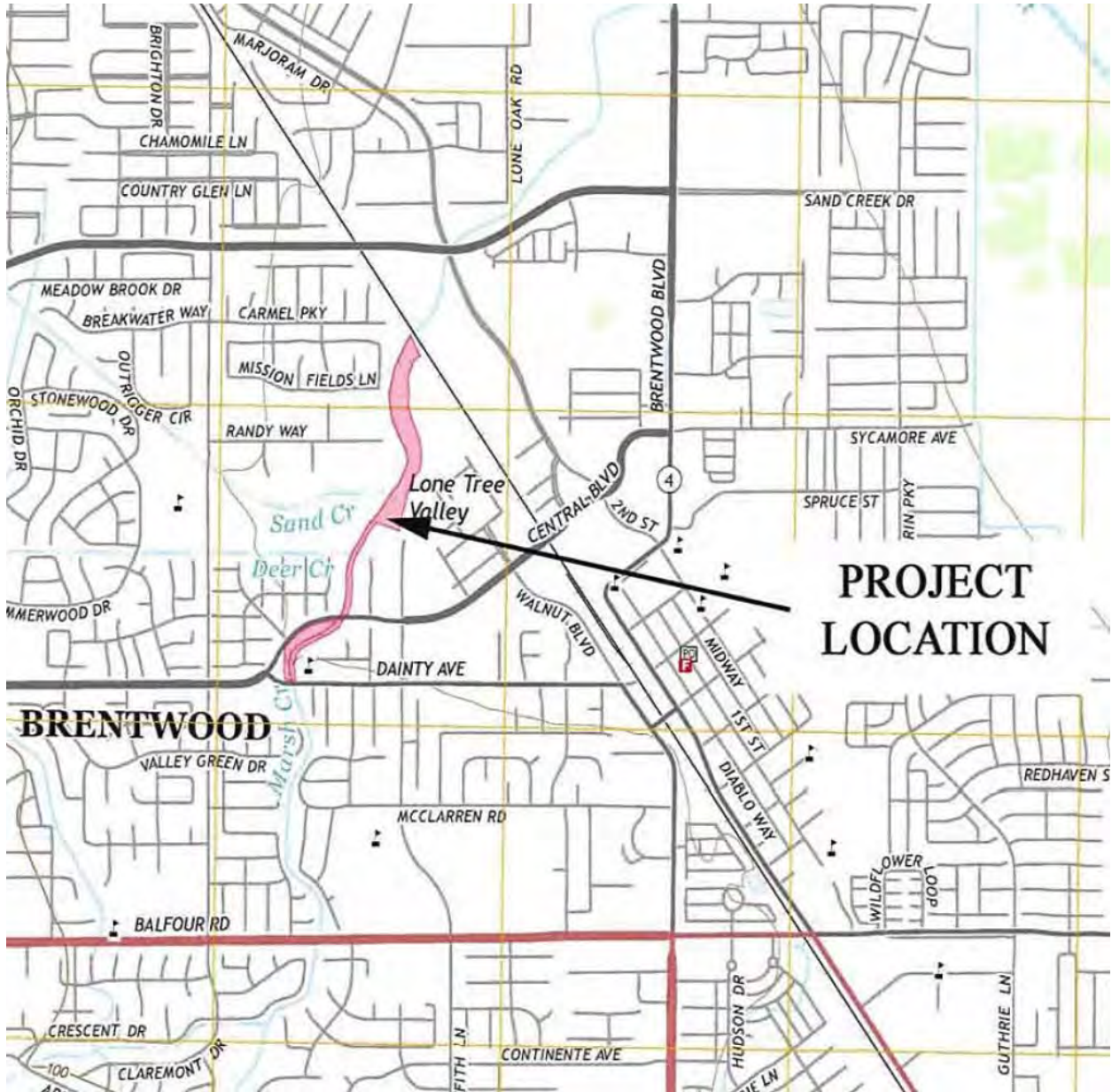
1. Report Schedule: The following reports are required to be submitted to the Grantor Project Manager in accordance with Exhibit A, Scope of Work and all other Exhibits of this Agreement and are due within thirty (30) days following the end of the calendar quarter:
  - 1<sup>st</sup> Quarter Progress Report    January 1 - March 31            Due April 30
  - 2<sup>nd</sup> Quarter Progress Report    April 1 - June 30                Due July 30
  - 3<sup>rd</sup> Quarter Progress Report    July 1 - September 30        Due October 30
  - 4<sup>th</sup> Quarter Progress Report    October 1 - December 31      Due January 30
  - Annual Report                      January 1 – December 31      Due January 30
  - Draft Final Report                Start date – Funding End      Due 30 days prior to funding end date
  - Final Report                        Start date – Funding End      Due 30 days post funding end date

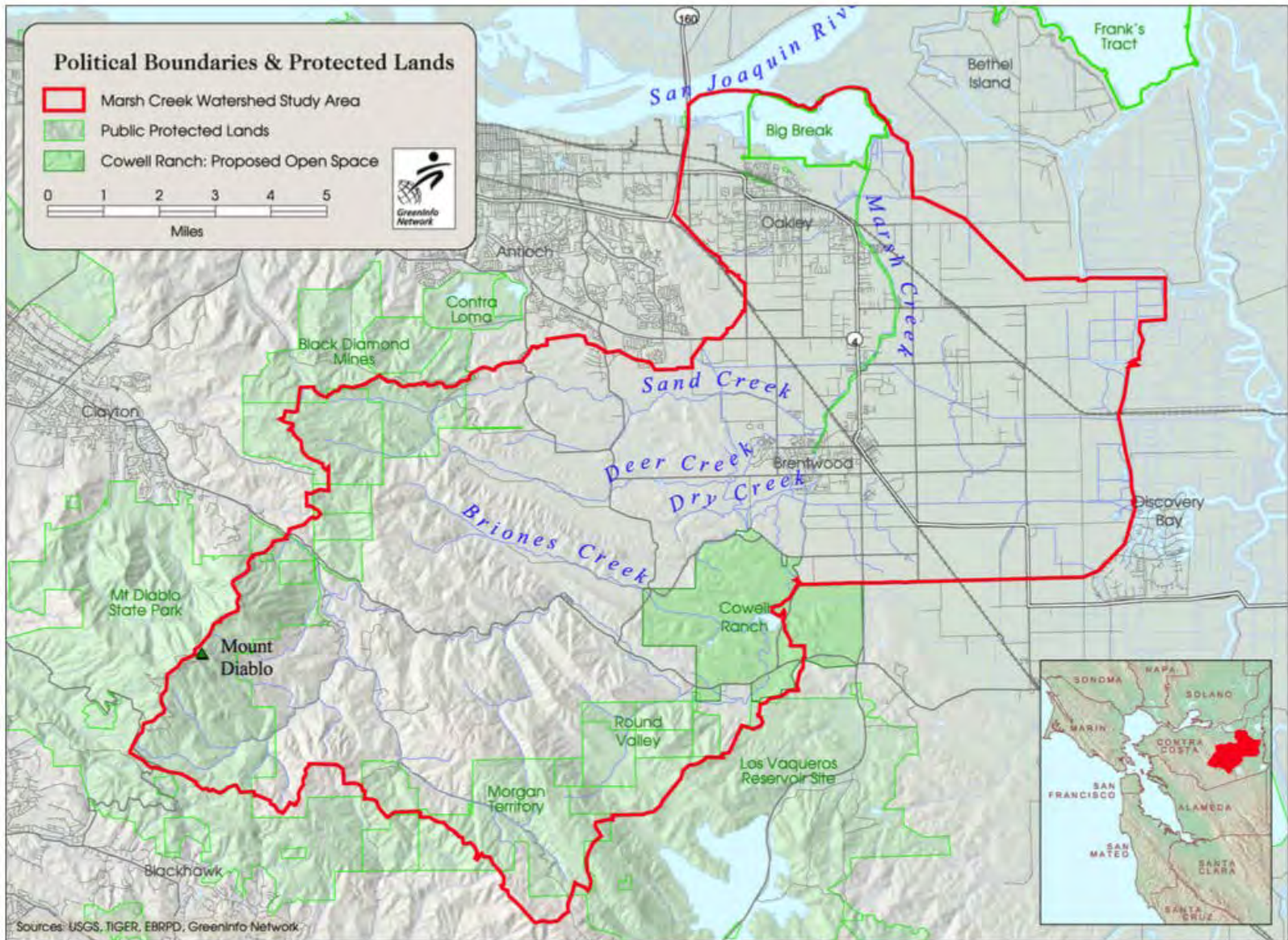
The Grantor reserves the right to require reports more frequently than on a quarterly basis if necessary, but no more than once a month.

2. Progress Reports: Grantee agrees to provide all technical and administrative services as needed for Agreement completion. Grantee agrees to monitor and review all work performed; and coordinate budgeting and scheduling to assure that the Agreement is completed within budget, on schedule, and in accordance with approved procedures, applicable laws, and regulations.
  - a. The Grantee ensures that the Agreement requirements are met by submitting quarterly progress reports (Exhibit G) to the Grantor Project Manager. Reporting shall be required even if no grant related activities occurred during the reporting period. The Grantee shall document all activities and expenditures in progress reports, including work performed by contractors.
  - b. The Quarterly Progress Report (Exhibit G) shall describe activities undertaken and accomplishments of each task during the quarter, milestones achieved, and will also include an evaluation of project performance that links to the project's performance measures. The description of activities and accomplishments of each task shall be in sufficient detail to provide a basis for payment of invoices and shall be translated into percent of task work completed for the purpose of calculating invoice amounts. Photo-documentation and other measurements of progress will be included in the Quarterly Progress Reports as appropriate. Progress reports should directly address tasks, timelines, deliverables, and associated costs and cost share contributions as scheduled in Scope of Work (Exhibit A) and Budget Detail and Payment Provisions (Exhibit B and Exhibit B, Attachment 1, 2).
  - c. The Quarterly Expenditure Projections (Exhibit G) shall reflect both actual and projected expenditures. The sum of all quarterly expenditure projections should equal that of approved Grant amount.
  - d. Grantee must monitor and report project performance with respect to the stated benefits identified in the approved grant proposal, and as described in the Performance Measures Table above. The Performance Measures Table should:
    - Provide a framework for assessment and evaluation of project performance.
    - Identify measures that can be used to monitor progress towards achieving project goals and desired outcomes.
    - Provide a tool for grantees and grantor project managers to monitor and measure project progress and guide final project performance reporting that will fulfill the grant agreement requirements.
    - Provide information to help improve current and future projects.
    - Quantify the value of public expenditures to achieve environmental results.
  - e. Grantee must document steps taken in soliciting and awarding the subcontractors and submit them to the Grantor for review and document all subcontractor activities in the Quarterly Progress Reports (Exhibit H).

3. Annual Report: At the end of each calendar year of the funding term of agreement, the Grantee shall submit an Annual Report. This Annual Report will serve as a supplement to the 4<sup>th</sup> Quarter Report and will include information on progress accomplished during that calendar year, findings, conclusions, and plans for the next calendar year. A template of the Annual Report is provided in Reports (Exhibit G). The Grantee shall submit the completed Annual Report with the 4<sup>th</sup> Quarter Report within thirty (30) days following the end date of the calendar year.
4. Draft and Final Report: At the end of the funding term of agreement, the Grantee must submit a Draft Final Report to the Grantor Project Manager for review and approval within 30 days prior to the funding end date. The Draft Final Report shall summarize the life of the Grant Agreement and describe the results of the work and of the Project, including findings, conclusions, and recommendations for follow up, ongoing or future activities, accomplishments, and before and after pictures, as appropriate. Following any comments from the Grantor Project Manager, the Grantee shall submit the revised Final Report for review and approval within 30 days after the funding end date.
  - a. At the end of the funding term of this agreement and prior to final payment, the Grantee Project Representative shall include with final invoice Exhibit H, Grantee's Release to the Grantor.
  - b. Grantee agrees that property and facilities acquired or developed pursuant to this Agreement shall be available for inspection upon request by the Grantor.

**EXHIBIT A, ATTACHMENT 1**  
**PROJECT MAP**





**EXHIBIT A, ATTACHMENT 2**  
**Covered Actions Checklist**

Covered Action Checklist		
<p>This checklist is a discretionary tool for state and local agencies to use in determining whether a plan, program, or project is a "Covered Action" (<a href="#">Delta Plan Chapter 2</a>), as defined in the Delta Reform Act (<a href="#">Water Code section 85057.5(a)</a>).</p> <p><b>Note:</b> the responsibility for making this determination rests with the State and local agencies, subject to judicial review.</p>		
Covered Action Title: _____		
<p><b>STEP 1:</b> Determine if the plan, program, or project is exempt from the definition of a "covered action".</p>		
<b>THE PLAN, PROGRAM OR PROJECT:</b>	YES	NO
<p><b>1. Is exempt from the definition of a covered action.</b>  <i>For specific details on what is statutorily exempt from regulation as a "covered action" refer to: <a href="#">[Water Code section 85057.5 (b)], included in (Appendix F of the Delta Plan) and (Chapter 2 of the Delta Plan)</a></i></p>	<input type="radio"/>	<input checked="" type="radio"/>
<p>If "YES", the plan, program, or project is exempt from the Council's regulatory authority – <b>NO FURTHER STEPS REQUIRED.</b></p> <p>If "NO", the plan, program or project is not exempt from the definition of a covered action – <b>PROCEED TO STEP 2.</b></p>		
<p><b>STEP 2:</b> Determine if the plan, program, or project meets <u>all</u> four "Screening Criteria" listed below.</p>		
<b>THE PLAN, PROGRAM OR PROJECT:</b>	YES	NO
<p><b>1. Is "... a plan, program, or project as defined pursuant to Public Resources Code section 21065;</b>  <i>This criteria would be met if the plan, program, or project meets the definition of a project under the California Environmental Quality Act (CEQA) Public Resources Code <a href="#">section 21065</a> that defines the term "project" for purposes of potential CEQA review.</i></p>	<input checked="" type="radio"/>	<input type="radio"/>
<p><b>2. Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh;</b>  <i>This criteria would be met if, for example, water intended for use upstream of the statutory Delta or Suisun March were transferred through the statutory Delta or Suisun Marsh (pursuant for example, to a water transfer longer than 1 year in duration).</i></p>	<input checked="" type="radio"/>	<input type="radio"/>
<p><b>3. Will be carried out, approved, or funded by the State or a local public agency;</b>  <i>This criteria would be met if the plan, program, or project is (a) an activity directly undertaken by any state or local public agency, (b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more state or local public agencies, or (c) An activity that involves the issuance to a person of lease, permit, license, certificate, or other entitlement for use by one or more state or local public agencies.</i></p>	<input checked="" type="radio"/>	<input type="radio"/>
<p><b>4. Will have a significant impact on the achievement of one or both of the coequal goals or the implementation of a government-sponsored flood control program to reduce risks to people, property, and State interests in the Delta;</b>  <i>"Significant Impact" means a substantial positive or negative impact on the achievement of one or both of the coequal goals or the implementation of a government-sponsored flood control program to reduce risks to people, property, and state interests in the Delta, that is directly or indirectly caused by a project on its own or when the project's incremental effect is considered together with the impacts of other closely-related past, present, or reasonably foreseeable future projects. The coequal goals and government-sponsored flood control programs are further defined in Chapters 3, 4, and 7.</i></p> <p><i>The following categories of projects will not have a significant impact for this purpose:</i></p> <ul style="list-style-type: none"> <li>• "Ministerial" projects exempted from CEQA, pursuant to Public Resources Code Section 21080(b)(1);</li> <li>• "Emergency" projects exempted from CEQA, pursuant to Public Resources Code Section 21080(b)(2)-(4);</li> <li>• Temporary water transfers of up to one year in duration. This provision shall remain in effect only through December 31, 2016, and as of January 1, 2017, is repealed, unless the Council acts to extend the provision prior to that date.;</li> <li>• Other projects exempted from CEQA, unless there are unusual circumstances indicating a reasonable possibility that the project will have a significant impact under Water Code Section 85057.5(a)(4). Examples of unusual circumstances could arise in connection with, among other things:             <ul style="list-style-type: none"> <li>• Local government general plan amendments for the purpose of achieving consistency with the Delta Protection Commission's Land Use and Resource Management Plan; and</li> <li>• Small-scale habitat restoration projects, as referred to in CEQA Guidelines 15333, proposed in important restoration areas, but which are inconsistent with the Delta Plan's policy related to appropriate habitat restoration for a given land elevation.</li> </ul> </li> </ul>	<input checked="" type="radio"/>	<input type="radio"/>
<p>If "NO" to <u>any</u> in step 2 above, the plan, program, or project, for purposes of the Delta Plan, does not meet the definition of Covered Action, <b>NO FURTHER STEPS REQUIRED.</b></p> <p>If "YES" to all four in step 2 above, then the plan, program or project is considered, for purposes of the Delta Plan, a Proposed Action – <b>PROCEED TO STEP 3.</b></p>		

<b>STEP 3:</b> Determine if the Proposed Action is covered by one or more Delta Plan regulatory policies below - <i>the final Screening Criteria.</i>		
THE PROPOSED ACTION:	YES	NO
<p><b>1. Is covered by one or more of the regulatory policies contained in Chapters 3, 4, 5, and 7;</b></p> <p><b>DELTA PLAN CHAPTER 3 -</b>  <u>WR P1 / 23 CCR SECTION 5003:</u> This policy covers all Proposed Actions that would export water from, transfer water through, or use water in the Delta, but does not cover any such action unless one or more water suppliers would receive water as a result of the proposed action.  <u>WR P2 / 23 CCR SECTION 5004:</u> This policy covers all Proposed Actions that involve water supply or water transfer contracts from the State Water Project (SWP) and/or the Central Valley Project (CVP).</p> <p><b>DELTA PLAN CHAPTER 4 –</b>  <u>ER P1 / 23 CCR SECTION 5005:</u> This policy covers all Proposed Actions that could significantly affect flow in the Delta.  <u>ER P2 / 23 CCR SECTION 5006:</u> This policy covers all Proposed Actions that include habitat restoration.  <u>ER P3 / 23 CCR SECTION 5007:</u> This policy covers all Proposed Actions in the priority habitat restoration areas depicted in <a href="#">Appendix 5</a>. It does not cover actions outside those areas.  <u>ER P4 / 23 CCR SECTION 5008:</u> This policy covers all Proposed Actions that would construct new levees or substantially rehabilitate or reconstruct existing levees.  <u>ER P5 / 23 CCR SECTION 5009:</u> This policy covers all Proposed Actions that have the reasonable probability of introducing, or improving habitat conditions for nonnative invasive species.</p> <p><b>DELTA PLAN CHAPTER 5 -</b>  <u>DP P1 / 23 CCR SECTION 5010:</u> This policy covers all Proposed Actions that involve new residential, commercial, and industrial development that is not located within the areas described in <a href="#">Appendix 6</a> and <a href="#">Appendix 7</a>. In addition, this policy covers any such action on Bethel Island that is inconsistent with the Contra Costa County general plan effective as of the date of the Delta Plan's adoption. This policy does not cover commercial recreational visitor-serving uses or facilities for processing of local crops or that provide essential services to local farms, which are otherwise consistent with this chapter.  <u>DP P2 / 23 CCR SECTION 5011:</u> This policy covers all Proposed Actions that involve the siting of water management facilities, ecosystem restoration, and flood management infrastructure.</p> <p><b>DELTA PLAN CHAPTER 7 –</b>  <u>RR P1 / 23 CCR SECTION 5012:</u> This policy covers all Proposed Actions that involve discretionary State investments in Delta flood risk management, including levee operations, maintenance, and improvements.  <u>RR P2 / 23 CCR SECTION 5013:</u> This policy covers all Proposed Actions that involve new residential development of five or more parcels that are not located within the following areas:            (1) Areas that city or county general plans, as of the date of the Delta Plan's adoption, designate for development in cities or their spheres of influence;            (2) Areas within Contra Costa County's 2006 voter-approved urban limit line, except Bethel Island;            (3) Areas within the Mountain House General Plan Community Boundary in San Joaquin County; or            (4) The unincorporated Delta towns of Clarksburg, Courtland, Hood, Locke, Ryde, and Walnut Grove, as shown in <a href="#">Appendix 7</a>.  <u>RR P3 / 23 CCR SECTION 5014:</u> This policy covers all Proposed Actions that would encroach in a floodway that is not either a designated floodway or regulated stream.  <u>RR P4 / 23 CCR SECTION 5015:</u> This policy covers all Proposed Actions that would encroach in any of the floodplain areas described below:            (1) The Yolo Bypass within the Delta;            (2) The Cosumnes River-Mokelumne River Confluence, as defined by the North Delta Flood Control and Ecosystem Restoration Project (McCormack-Williamson), or as modified in the future by the Department of Water Resources or the U.S. Army Corps of Engineers (Department of Water Resources 2010a); and,            (3) The Lower San Joaquin River Floodplain Bypass area, located on the Lower San Joaquin river upstream of Stockton immediately southwest of Paradise Cut on lands both upstream and downstream of the Interstate 5 crossing. This area is described in the Lower San Joaquin River Floodplain Bypass Proposal, submitted to the Department of Water Resources by the partnership of the South Delta Water Agency, the River Islands Development Company, Reclamation District 2062, San Joaquin Resource Conservation District, American Rivers, the American Lands Conservancy, and the Natural Resources Defense Council, March 2011. This area may be modified in the future through the completion of this project.</p>	<input checked="" type="radio"/>	<input type="radio"/>
<p>If "NO" to Step 3 above, the "proposed action" is <u>not covered</u> by any of the Delta Plan regulatory policies above and therefore <u>exempt</u> from the Council's regulatory authority - <b>NO FURTHER STEPS ARE REQUIRED.</b></p> <p>If "YES" to Step 3 above, the "proposed action" is <u>covered</u> by one or more of the Delta Plan regulatory policies above and therefore referred to as a "Covered Action". A Certification of Consistency must be filed with the DSC - <b>PROCEED TO FINAL STEP.</b></p>		

<p><b>FINAL STEP:</b> File a Certification of Consistency with detailed findings demonstrating consistency with the Delta Plan.</p>
<p><b>1. Click <a href="#">here</a> to file a Certification of Consistency with the Delta Stewardship Council, with detailed findings, demonstrating that the covered action is consistent with the Delta Plan.</b></p> <p><i>The State or local agency that proposes to undertake a covered action, prior to initiating the implementation of that covered action, is required to file a Certification of Consistency with the Delta Stewardship Council using the online form found on the Delta Stewardship Council's website. Detailed findings must be included to demonstrate how the covered action is consistent with all relevant policies of the Delta Plan. The online form prompts the agency for the requirements to be included and may be uploaded to the form. Typically, the lead agency, for purposes of CEQA compliance, will file the Certification of Consistency with the Delta Stewardship Council.</i></p>
<p><b>ADDITIONAL CONSIDERATIONS:</b></p>
<ul style="list-style-type: none"> <li> <p><b>Have the project proponent and/or the lead agency consulted with the Delta Stewardship Council on the covered action? (Not required, but recommended)</b></p> <p><i>Working with the Delta Stewardship Council staff during the early development phases of the covered action and prior to filing a Certification of Consistency is a valuable tool to maximize the consistency between the covered action and the Delta Plan.</i></p> </li> </ul>
<ul style="list-style-type: none"> <li> <p><b>Statutory Exemptions</b></p> <p><i>Certain actions are statutorily excluded from the definition of covered action and are exempt from the Council's regulatory authority (<a href="#">Water Code section 85057.5(b)</a>). A complete list is included in <a href="#">Appendix F</a> of the Delta Plan.</i></p> </li> </ul>
<ul style="list-style-type: none"> <li> <p><b>Was the <u>DRAFT</u> Certification of Consistency posted on the Agency website for public review and comment and notifications sent prior to submission to the Delta Stewardship Council?</b></p> <p><i>At least 10 days prior to the submission of a Certification of Consistency to the Council, agencies whose actions are not subject to open meeting laws (Bagley-Keene Open Meeting Act (<a href="#">Gov. Code sec 11120 et seq.</a>) or the Brown Act (<a href="#">Gov. Code sec 54950 et seq.</a>)) with regard to its certification must post for public review and comment, their draft certification on their website and in their office, mail to all persons requesting notice, and include any public comments received in the record submitted to the council in the case of an appeal.</i></p> <p><i>Any state or local public agency that is subject to open meeting laws with regard to its certification is encouraged to take those actions.</i></p> </li> </ul>
<ul style="list-style-type: none"> <li> <p><b>Has CEQA been completed at the time of filing a Certification of Consistency with the Delta Stewardship Council?</b></p> <p><i>Filing the Certification of Consistency with the Delta Stewardship Council should occur at the same time of filing of the Notice of Determination where applicable. Filing a Certification of Consistency too early may result in an originally proposed covered action that is significantly altered through the CEQA process or otherwise. If, after filing a certificate of consistency, the project is significantly changed, a new Certification of Consistency will need to be filed with the Delta Stewardship Council.</i></p> </li> </ul>
<ul style="list-style-type: none"> <li> <p><b>Implementation of the covered action may not proceed until the appeals process is complete.</b></p> <p><i>Once the State or local agency has filed a Certification of Consistency for a covered action, the Certification of Consistency is displayed on the Delta Stewardship Council's website for public view. <a href="#">Water Code 85225.10, (a)</a>: Any person who claims that a proposed covered action is inconsistent with the Delta Plan and, as a result of that inconsistency, the action will have a significant adverse impact on the achievement of one or both of the coequal goals or implementation of government-sponsored flood control programs to reduce risks to people and property in the Delta, may file an appeal <b>within 30 calendar days of Filing</b> with regard to a Certification of Consistency submitted to the Delta Stewardship Council.</i></p> <p><i>The Delta Stewardship Council has developed <a href="#">Administrative Procedures Governing Appeals (Appendix D)</a>. If a valid appeal is filed with the Delta Stewardship Council <b>within 30 calendar days of Certification Filing</b>, the Council will hear the appeal within 60 days of the filing of the appeal. The Council will adopt written findings, either upholding the appeal or denying it, within 60 days of the hearing. If multiple appeals are filed on the same covered action, the Council will consolidate, to the extent practicable, all the appeals into a single hearing.</i></p> </li> </ul>
<ul style="list-style-type: none"> <li> <p><b>Has the state or local agency prepared the "record" upon which the certification of consistency is based?</b></p> <p><i>If the Certification of Consistency is appealed, the State or local agency must submit the record to the Delta Stewardship Council within 10 days of being notified of the appeal. The Delta Stewardship Council encourages the agency to submit the record that was before the lead agency at the time it made its certification as part of the certificate of consistency. Failure to submit the record in a timely manner is grounds for the council to affirm the appeal.</i></p> </li> </ul>
<p align="center"><b>THANK YOU FOR USING THE COVERED ACTIONS CHECKLIST.        YOU MAY SAVE THE CHECKLIST TO YOUR COMPUTER OR PRINT FOR YOUR RECORDS.</b></p>



## **EXHIBIT B BUDGET DETAIL AND PAYMENT PROVISIONS**

### **I. BUDGET DETAIL**

The Grantee agrees to perform and complete the work described in Exhibit A, Scope of Work within the budget specified below for a total budget not to exceed \$836,409.

\$ 167,282 for the fiscal year (FY 2016-17).

\$ 585,486 for the fiscal year (FY 2017-18).

\$ 83,641 for the fiscal year (FY 2018-19).

### **II. BUDGET MODIFICATIONS**

1. Changes to the line-item budget within a specific task may be made without formal amendment (not to exceed 10% and no more than \$5,000 of line-item) provided the change does not exceed the total amount of the agreement. The Grantee must adequately document the need for the change and all of the following requirements must be met:
  - a. The Grantee submits a written request for budget modification and explains the need for change(s) and specifically identifies item(s) to be reduced or increased.
  - b. The Grantor Project Manager approves such changes in writing prior to implementation. The Grantor shall have thirty (30) calendar days from receipt of the request to approve or deny the request for the exchange of funds between line items.
2. Any budget change not meeting the above conditions, including the addition of the new line items, shall be by formal agreement amendment.
3. Any budget modifications must meet requirements of Grant Guidelines for FY2015-16.

### **III. INVOICE AND PAYMENT**

1. For tasks satisfactorily rendered, in accordance with the all Exhibits, terms and conditions of this Grant agreement; and upon receipt and approval of itemized invoice(s), and including any required progress reports or other mandatory documentation identified within this Agreement, the Grantor agrees to reimburse Grantee for actual expenditures of the tasks, no more frequently than quarterly in arrears, in accordance with the rates specified in Budget Summary (Exhibit B, Attachment 1).
2. The Grantor will only reimburse for expenses incurred through the funding end date of the agreement and will not accept an invoice for work that has not been approved and will return the invoice as disputed to the Grantee.
3. Each quarterly invoice submitted for payment must be accompanied by a Progress Report including a written description, not to exceed two pages in length; of the Grantee's performance under this grant since the time the previous such report was prepared. The report shall describe the types of activities and specific accomplishments during the period for which the payment is being made rather than merely listing the number of hours worked during the reporting period. If there is cost shares involved with the project, the final invoice must include a budget summary of cost share expenditures by fund source.
4. Invoices shall be submitted not more frequently than quarterly in arrears and will only be approved for payment after Grantor's Project Manager has reviewed the progress reports submitted by the Grantee and determines that the work is completed or that the progress of tasks completed is satisfactory for payment.

A sample invoice is provided in Exhibit B, Attachment 2 and may be submitted electronically to the Grantor Project Manager or by mail to Admin Accounting, but not both. Invoices received electronically will be printed and date stamped with the date the Grantor Admin unit receives the invoice. Invoices submitted by

mail shall include one (1) original invoice to the address below:

Sacramento-San Joaquin Delta Conservancy  
Attention: Admin Accounting  
1450 Halyard Drive, Suite 6  
West Sacramento, CA 95691

Invoices must include at the minimum the following information:

- Grant agreement number
- Invoice number
- Invoice date
- Performance service period (i.e., include terms “from” and “to”)
- Description of the work performed for the service period (included in progress report)
- Itemized cost and percent breakdown by Task and Deliverable and Outcome at the same or greater level of detail as indicated in this agreement
- Original receipts and supporting documentation of actual out-of-pocket expenses
- 100% time accounting timesheets for each person billing to the grant
- Subcontractor invoices for any subcontractor expenses being billed to the grant
- Total amount being billed for the service period, on or before the funding end date of the agreement
- Grantee’s signature signed by an authorized official certifying that the expenditures claimed represent actual expenses for the tasks performed under this agreement.

In addition, if travel is a reimbursable expense, original receipts must be maintained to support the claim expenditures and attached to the invoice:

- Include travel expense amount in the total amount of invoice
- Reimbursement rates for travel shall not exceed the amounts identified and according to CalHR current state rates, see <http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>
- No travel outside the State of California by Grantee shall be reimbursed unless there is prior written authorization obtained from the Grantor.

5. Invoices submitted for payment must be within 30 days following the end of the calendar quarter in which the work was performed and costs incurred in the performance of the Agreement, unless the agreement has reached the funding end date, termination date, or alternate deadline is agreed to in writing by the Grantor Project Manager (see item VI. “Timely Submission of Final Invoice”).

Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 917 et seq. Unless expressly exempted by statute, the Act requires state agencies to pay properly submitted, undisputed invoices not more than 45 days after (a) the date of the acceptance of performance of services; or (b) receipt of an undisputed invoice – whichever is later.

6. Invoices shall be paid based on actual expenses incurred and shall not exceed the total amount of this agreement. In the event actual expenditures differ from the estimated amounts of the budget, the Grantee's Project Representative and the Grantor’s Project Manager may re-negotiate specific line-item adjustments provided the overall total project cost does not exceed the total agreement value (see item VIII. “Budget Modifications”).

Costs and/or expenses deemed unallowable are subject to recovery by the Grantor (see item IX. “Recovery of Overpayments”).

#### IV. ADMINISTRATIVE COSTS

1. Eligible Costs: Only project costs for items within the scope of the project and invoiced within the time frame of the funding end date of the agreement are eligible for reimbursement. Costs related to project-

specific performance measures and reporting are required to be addressed in the project budget.

Eligible administrative costs must be directly related to the project and may not exceed five (5) percent of the project implementation cost. To determine the amount of eligible administrative costs, the Grantee must first determine the cost of implementing the project, not including any administrative costs. Once the project implementation cost has been determined, the Grantee may calculate administrative costs and include them in the total grant request. Similar to the traditional definition of "overhead" and "indirect", administrative costs must be reasonable, allocable, and applicable and may include administrative support, office-related expenses, and personnel.

2. Ineligible Costs: Grant funding may not be used to establish or increase a legal defense fund or endowment, make a monetary donation to other organizations, pay for food or refreshments, or eminent domain processes.

#### **V. STATE BUDGET CONTINGENCY CLAUSE**

1. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this agreement does not appropriate sufficient funds for the program, this agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this agreement and Grantee shall not be obligated to perform any provisions of this agreement.
2. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this agreement with no liability occurring to the State, or offer an agreement amendment to Grantee to reflect the reduced amount.
3. If funding for any fiscal year is not obligated by the funder, the State shall have the option to either cancel this agreement with no liability occurring to the State, or offer an agreement amendment to the Grantee to reflect the reduced amount.

#### **VI. PROMPT PAYMENT CLAUSE**

1. Payment will be made in accordance with, and within the time specified in, Government Code, Chapter 4.5, commencing with Section 927. An incomplete/disputed invoice will be returned to Grantee per Government Code, Chapter 4.5, Section 927.6. Time specified for prompt payment in Government Code, Chapter 4.5, Section 927.4 commences upon submittal of a completed/undisputed invoice.

#### **VII. TIMELY SUBMISSION OF FINAL INVOICE**

1. A final undisputed invoice shall be submitted for payment no more than ninety (90) calendar days following the funding end date of this agreement, unless the Grantor Project Manager agrees to a later or alternate deadline in writing. The final invoice must be clearly marked "**FINAL INVOICE**" and "Exhibit H, Grantee's Release" must be attached, thus indicating that all payment obligations of the State under this Agreement have ceased and that no further payments are due or outstanding.
2. The State may, at its discretion, choose not to honor any delinquent final invoice if the Grantee fails to obtain prior written State approval of an alternate final invoice submission deadline. Written State approval shall be sought from the Grantor Project Manager prior to the funding end date or termination date of this agreement.

#### **VIII. REVIEWS**

1. Each party reserves the right to review service levels and billing procedures such as timesheets or other supporting documentation as these impact charges against this agreement.

**IX. RECOVERY OF OVERPAYMENT**

1. Grantee agrees that claims based upon the grant agreement audit finding and/or audit finding that is appealed and upheld, will be recovered by the State government by one of the following options:
  - a. Grantee's remittance to the State of the full amount of the audit exception within 30 days following the State's request for repayment; or
  - b. A repayment schedule, which is agreeable in writing to both the Grantor and the Grantee.
2. The State reserves the right to select which option will be enforced and the Grantee will be notified by the State in writing of the claim option to be utilized.
3. If the Grantee has filed a valid appeal regarding the report of audit findings, recovery of the overpayments will be deferred until a final administrative decision on the appeal has been reached.

**EXHIBIT B, ATTACHMENT 1  
BUDGET SUMMARY**

**I. EXPENDITURE SUMMARY**  
1. Line Item Budget Detail

Three Creeks Parkway Restoration Project				
<b>A. PERSONNEL SERVICES</b>				
<u>Level of Staff</u>	<u>Hours</u>	<u>Rate</u>	<u>Staff Benefits %</u>	<u>Total Cost</u>
Conservation Senior Director	210	\$ 53.71	40%	\$ 15,792.00
Conservation Associate Director	200	\$ 29.42	40%	\$ 8,240.00
Conservation Director	189	\$ 39.23	40%	\$ 10,382.00
Project Coordinator	150	\$ 21.43	40%	\$ 4,502.00
Technical Editor	115	\$ 28.39	40%	\$ 4,573.00
<b>Subtotal Personnel Services:</b>				<b>\$ 43,489.00</b>
<b>B. OPERATING EXPENSES: (GENERAL)</b>				
<u>Items (units)</u>	<u>Number of Units</u>	<u>Cost per Unit</u>	<u>Total Cost</u>	
General Expenses	1	\$ 4,779.02	\$	4,779.00
Permit Fees	1	\$ 1,800.00	\$	1,800.00
Travel - Mileage for 12 trips of 100 miles each (roundtrip) from Berkeley to the project site	1200	\$ 0.54	\$	648.00
Travel - per diem	24	\$ 64.00	\$	1,536.00
<b>Subtotal Operating Expenses: (General)</b>				<b>\$ 8,763.00</b>
<b>C. OPERATING EXPENSES: (SUBCONTRACTORS)</b>				
<u>Subcontractor Title</u>	<u>Total Cost</u>			
Restoration Parkway Design, Consultant	\$70,994.00			
Excavation and Grading, Contractor	\$205,391.00			
Trail Relocation, Contractor	\$30,000.00			
Native Plant Revegetation, Contractor	\$385,000.00			
Contingency	\$62,639.00			
<b>Subtotal Operating Expenses: (Subcontractors)</b>				<b>\$754,024.00</b>
<b>D. OPERATING EXPENSES: (EQUIPMENT)</b>				
See General Grant Provisions for definitions of electronic and purchased equipment.				
<b>Subtotal Operating Expenses: (Equipment)</b>				<b>\$0.00</b>
<b>E. TOTAL DIRECT COSTS</b>				
SUBTOTAL A. Personnel Services				\$ 43,489.00
SUBTOTAL B. Operating Expenses: (General)				\$ 8,763.00
SUBTOTAL C. Operating Expenses: (Subcontractors)				\$ 754,024.00
SUBTOTAL D. Operating Expenses: (Equipment)				\$ -
<b>TOTAL DIRECT COSTS:</b>				<b>\$ 806,276.00</b>
<b>F. INDIRECT COSTS</b>				
Indirect Cost A. Personnel Services				\$ 2,174.00
Indirect Cost B. Operating Expenses (General)				\$ 438.00
Indirect Cost C. Operating Expenses (Subcontractors)				\$ 27,521.00
<b>TOTAL INDIRECT COSTS:</b>				<b>\$ 30,133.00</b>
<b>G. GRAND TOTAL (E + F)</b>				<b>\$ 836,409.00</b>

2. Table of Funding Sources and Cost Share

Three Creeks Parkway Restoration Project			
Source of Funds - Non-State	Cash	In-Kind	Total
Applicant	\$ -	\$0.00	\$ -
Contra Costa County Water Conservation & Flood Control District	\$ 725,500.00	\$725,405.00	\$ 1,450,905.00
Subtotal 1	\$ 725,500.00	\$725,405.00	\$ 1,450,905.00
Source of Funds – State Grantor	Cash	In-Kind	Total
Sacramento-San Joaquin Delta Conservancy	\$ 836,409.00		\$ 836,409.00
Subtotal 2			\$ 836,409.00
Source of Funds – Other State	Cash	In-Kind	Total
DWR Urban Stream Restoration Grant	\$ 150,140.00	\$0.00	\$ 150,140.00
			\$ -
Subtotal 3		\$0.00	\$ 150,140.00
<b>Totals</b>	<b>\$ 725,500.00</b>	<b>\$ 725,405.00</b>	<b>\$ 1,450,905.00</b>

Note: Any changes or modifications to a fund source indicated above must be promptly reported to the Grantor Project Manager. Projects with undisclosed fund sources may be subject to an audit.

Budget Breakdown by Task			
Tasks	Conservancy	Cost Share	Total
Task 1: Project Grant Management, Administration, and Reporting	\$ 26,371.00	\$ 41,570.00	\$ 67,941.00
Task 2: CEQA and Permits	\$ -	\$ 190,443.00	\$ 190,443.00
Task 3: Detained Design	\$ 84,985.00	\$ 466,068.00	\$ 551,053.00
Task 4: Construction	\$ 310,780.00	\$ 2,598,170.00	\$ 2,908,950.00
Task 5: Revegetation	\$ 389,250.00	\$ 180,000.00	\$ 569,250.00
Task 6: Public Outreach and Agency Coordination	\$ 6,808.00	\$ 62,402.00	\$ 69,210.00
Task 7: Monitoring and Maintenance	\$ 18,214.00	\$ 279,606.00	\$ 297,820.00
<b>TOTAL</b>	<b>\$ 836,408.00</b>	<b>\$ 3,818,259.00</b>	<b>\$ 4,654,667.00</b>

**EXHIBIT B. ATTACHMENT 2**

**Sample Invoice**

(This is an example only; Grantee is only required to submit the information as described in Exhibit B, Attachment 1 on Grantee's letterhead)

Grantee Organization  
Address  
City/State/Zip Code

Project Title:  
Grant Number: (2015-16-xxxP1)

Invoice #:  
Invoice Date:  
Performance Service Period Dates: (From/To)

**Itemized Cost:** (All tasks should exactly match those identified in the Scope of Work and Budget. Budget should be broken out into Sections: 1. Personnel Services; 2. Operation Expenses: General; 3. Operating Expenses: Subcontractors; 4. Operating Expenses: Equipment; 5. Indirect Costs. (As applicable))

\$ \_\_\_\_\_  
**Total Amount of this Invoice**

Grantee Authorized Approval

Description	Labor					Expenses					Task Totals	Task Totals to Date	Prop 1 Budget	Prop 1 Balance Available	% of Prop 1 Budget Spent	Projected Prop 1 Budget for Next Quarter	Match Dollars Spent During This Reporting Period	Match Budget	Match Balance Available	% of Match Budget Spent	Projected Match Budget for Next Quarter	Source of Match Dollars
	Project Manager	Staff 2	Staff 3	Staff 4	Staff 5	1. Personnel Services	2. Operation Expenses: General	3. Operating Expenses: Subcontractor	4. Operating Expenses: Equipment	5. Indirect Costs												
<b>PERSONNEL HOURLY RATES:</b>																						
<b>STAFF BENEFITS (%):</b>																						
Task 1:	1.1					0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
	1.2					0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
Task 2:	2.1					0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
	2.2					0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
Task 3:	3.1					0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
	3.2					0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
Task 4:						0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
						0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
Task 5:						0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
						0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
Task 6:						0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
						0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
Task 7:						0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
						0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
Task 8:						0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
						0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
Task 9:						0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
						0.00					\$0.00	\$0.00	0.00	\$0.00	#DIV/0!						#DIV/0!	
<b>Total hours</b>	0.00	0.00	0.00	0.00	0.00																	
<b>INVOICE TOTAL</b>											<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>		<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>		<b>\$0.00</b>	<b>\$0.00</b>

**Project STATUS TO Date (By Task)**

This should be a cumulative overview of the activities performed to date by task, deliverable and outcome and include both current and past information for each task. Please list all new information at the top of each task section so that it is clear which information is the most recent.

**Note:** Invoices shall be submitted with original receipts and supporting documentation of expenses not more frequently than quarterly in arrears.

**Submit to:**  
Sacramento-San Joaquin Delta Conservancy  
Attention: Grant Manager  
1450 Halyard Drive, Suite 6  
West Sacramento, CA 95691

**EXHIBIT C**  
**GENERAL TERMS AND CONDITIONS**

- I. **APPROVAL**: This Agreement is of no force or effect until signed by both parties and approved by the Grantor. Grantee may not commence performance until such approval has been obtained.
- II. **AMENDMENT**: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
- III. **ASSIGNMENT**: This Agreement is not assignable by the Grantee, either in whole or in part, without the consent of the State in the form of a formal written amendment.
- IV. **AUDIT**: Grantee agrees that the awarding department, the Department of General Services, the Department of Finance, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Grantee agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Grantee agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
- V. **INDEMNIFICATION**: Grantee agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all Grantees, 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 Grantee in the performance of this Agreement.
- VI. **DISPUTES**: Grantee shall continue with the responsibilities under this Agreement during any dispute.
- VII. **TERMINATION FOR CAUSE**: The Grantor 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. If the Grantee fails to complete the project on time in accordance with this Agreement prior to the termination date or in accordance with the Scope of Work, the Grantee shall be liable for immediate repayment to the Grantor of all amounts disbursed by the Grantor under this Agreement, plus accrued interest. The Grantor may, in its sole discretion, consider extenuating circumstances and not require repayment for work partially completed. This paragraph shall not be deemed to limit any other remedies the Grantor may have for breach of this Agreement.
- VIII. **INDEPENDENT GRANTEE**: 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 or agents of the State.
- IX. **RECYCLING CERTIFICATION**: The Grantee shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
- X. **NON-DISCRIMINATION CLAUSE**: During the performance of this Agreement, Grantee and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or



applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Grantee and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Grantee and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

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

- XI.** LICENSES AND PERMITS (If Applicable): The Grantee is responsible for obtaining all licenses and permits required by law for accomplishing any work required in connection with this Agreement. Costs associated with permitting may be reimbursed under this Grant Agreement only if approved in the budget detail and pay provisions area.
- XII.** CERTIFICATION CLAUSES: The Grantee Certification Clauses contained in the document are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
- XIII.** TIMELINESS: Time is of the essence in this Agreement.
- XIV.** COMPENSATION: The consideration to be paid Grantee, as provided herein, shall be compensation for all reasonable and eligible expenses incurred by Grantee in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
- XV.** GOVERNING LAW: This Grant is governed by and shall be interpreted in accordance with the laws of the State of California.
- XVI.** VENUE: 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.
- XVII.** 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 Codes Sections set out below.
  - a. The Government Code Chapter on Antitrust claims contains the following definitions:
    - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
    - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
  - b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section

4552.

- c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

- XVIII.** CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the Grantee acknowledges in accordance with Public Contract Code 7110, 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.
- XIX.** UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
- XX.** PRIORITY HIRING CONSIDERATIONS: If this Grant includes services in excess of \$200,000, the Grantee shall give priority consideration in filling vacancies in positions funded by the Grant to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.
- XXI.** SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:
- a. If for this Grant Agreement Grantee made a commitment to achieve small business participation, then Grantee must within 60 days of receiving final payment under this Agreement (or within such other time period as may be specified elsewhere in this Agreement) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
  - b. If for this Agreement Grantee made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Grantee must within 60 days of receiving final payment under this Agreement (or within such other time period as may be specified elsewhere in this Agreement) certify in a report to the awarding department: (1) the total amount the prime Grantee received under the Agreement; (2) the name and address of the DVBE(s) that participated in the performance of the Agreement; (3) the amount each DVBE received from the prime Grantee; (4) that all payments under the Agreement have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)
- XXII.** LOSS LEADER: If this Agreement involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

**EXHIBIT D**  
**SPECIAL TERMS AND CONDITIONS**

- I. **EXCISE TAX:** The State of California is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on employees' wages.
- II. **DISPUTE RESOLUTION:** Any claim that the Grantee may have regarding the performance of this Agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Grant Manager in writing within ten (10) days of discovery of the problem. The Grantee and the Grantor Executive Officer or Executive Officer's designee will then attempt to negotiate a resolution of the claim, if appropriate, and process an amendment to this Agreement to implement the terms of any such resolution. If the Grantee and the Grantor are unable to resolve the dispute, the decision of the Executive Officer or Executive Officer's designee will be final, unless appealed to a court of competent jurisdiction. Grantee will continue with the responsibilities under this Agreement during any dispute. In the event of a dispute, the language contained within this Agreement will prevail over any other language.
- III. **ACKNOWLEDGMENT OF CREDIT:** The Grantee will include appropriate acknowledgment of credit to the State of California, Grantor, and all cost-sharing partners for their financial support when using any data and/or information developed under this Agreement.
- IV. **STANDARD OF PROFESSIONALISM:** The Grantee will conduct all work consistent with the professional standards of the industry and type of work being performed under the Agreement.
- V. **TERMINATION WITHOUT CAUSE:** The Grantor may terminate this Agreement without cause upon thirty (30) days advance written notice. The Grantee will be reimbursed for all reasonable expenses incurred up to the date of termination.
- VI. **COMPUTER SOFTWARE:** If software usage is an essential element of performance under this Agreement, the Grantee certifies that it has appropriate systems and controls in place to ensure that Grantor funds will not be used in the performance of this Agreement. Acquisition, operation, or maintenance of computer software during the term of this Agreement must be performed in accordance with all applicable laws and vendor license agreements. Grantee will provide all necessary business productivity or utility software in addition to any required computer equipment, peripherals and proprietary or specialty software when performing services at Grantor location.
- VII. **RIGHTS IN DATA:** The Grantor will retain rights to all final products produced as a result of this agreement. The Grantee will provide the Grantor with an electronic or camera-ready version of the final product. Grantee will have full rights to reproducing the product(s) as long as used for government and not commercial, purposes. The Grantor has the right to: (1) obtain, reproduce, publish, or otherwise use the data first produced in performing this grant; and (2) authorize others to receive, reproduce, publish, or otherwise use such data by or on behalf of the Grantor.
- VIII. **COPYRIGHT:** All rights in copyright works created by Grantee in the performance of work under this Agreement are the property of the Grantor. The Grantor will extend Grantee a royalty-free, nonexclusive, non-transferable, irrevocable license to reproduce, prepare derivative works, and distribute copies of deliverables so long as such deliverables are used for government, and not commercial purposes.
- IX. **INTELLECTUAL PROPERTY INDEMNITY:** Grantee will defend and indemnify Grantor from and against any claim, lawsuit, or other proceeding, loss, cost, liability, or expense (including court costs and reasonable fees for attorneys and other professionals) to the extent arising out of any third party claim solely arising out of the negligent or other tortious acts or omissions by the Grantee, its

employees, or agents, in connection with intellectual property claims against either deliverables or the Grantee's performance thereof under this Agreement.

- X. POTENTIAL SUBCONTRACTORS:** Nothing contained in this Agreement or otherwise shall create any contractual relation between the State and any subcontractor, and no subcontract shall relieve the Grantee of its responsibilities and obligations hereunder. The Grantee agrees to be as fully responsible to the State for the acts and omissions of its subcontractor 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 subcontractors is an independent obligation from the State's obligation to make payments to the Grantee. As a result, the State shall have no obligation to pay or enforce the payment of any moneys to any subcontractor.
- XI. SUBCONTRACTING:** The Grantee is responsible for any work it subcontracts. Subcontracts must include all applicable terms and conditions of this Agreement. Any subcontractor, outside associates, or consultants required by the Grantee in connection with the services covered by this Agreement shall be limited to such individuals or firms as were specifically identified in the bid or agreed to during negotiations for this Agreement, or as are specifically authorized by the Grantor Project Manager during the performance of this Agreement. Any substitutions in, or additions to, such subcontractors, associates or consultants shall be subject to the prior written approval of the Grantor Project Manager. Grantee warrants, represents and agrees that it and its subcontractors, employees and representatives shall at all times comply with all applicable laws, codes, rules and regulations in the performance of this Agreement. Should State determine that the work performed by a subcontractor is substantially unsatisfactory and is not in substantial accordance with the Agreement terms and conditions, or that the subcontractor is substantially delaying or disrupting the process of work, State may request substitution of the subcontractor.
- XII. LABOR CODE COMPLIANCE:** Grants awarded through the Conservancy's Ecosystem Restoration and Water Quality Grant Program may be subject to prevailing wage provisions of Part 7 of Division 2 of the California Labor Code (CLC), commencing with Section 1720. Typically, the types of projects that are subject to the prevailing wage requirements are public works projects. Existing law defines "public works" as, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. Assembly Bill 2690 (Hancock, Chapter 330, Statutes of 2004) amended California Labor Code (CLC) Section 1720.4 to exclude most work performed by volunteers from the prevailing wage requirements until January 1, 2017.
- The grantee shall pay prevailing wage to all persons employed in the performance of any part of the project if required by law to do so. Any questions of interpretation regarding the CLC should be directed to the Director of the Department of Industrial Relations (DIR), the state department having jurisdiction in these matters. For more details, please refer to the DIR website at <http://www.dir.ca.gov>.
- XIII. FORCE MAJEURE:** Neither party will be liable to the other for any delay in or failure of performance, nor will any such delay in or failure of performance constitute a default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of nature such as earthquakes, floods, and other natural disasters such that performance is impossible.
- XIV. AGENCY LIABILITY:** The Grantee warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Grantee for the purpose of securing business. For breach or violation of this warranty, the Grantor will, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only

for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

**XV.** RENEWAL OF GRANTEE CERTIFICATION CLAUSES: Grantee will renew the Grantee Certification Clauses or successor documents every year or as changes occur, whichever occurs sooner.

**XVII.** INSURANCE REQUIREMENTS: When Grantee submits a signed Agreement to the State, Grantee shall furnish to the State a certificate of insurance, stating that there is liability insurance presently in effect for the Grantee of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined.

The certificate of insurance will include provisions a, b, and c, in their entirety:

- a. That the insurer will not cancel the insured's coverage without 30 days prior written notice to the State.
- b. That the State of California, its officers, agents, employees, and servants are included as additional insured, but only insofar as the operations under this Agreement are concerned.
- c. That the State will not be responsible for any premiums or assessment on the policy.

Grantee agrees that the bodily injury liability insurance herein provided for shall be in effect at all times during the term of this Agreement from the effective start date through the grant end date. In the event said insurance coverage expires at any time or times during the term of this Agreement, Grantee agrees to provide at least 30 days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one year. New certificates of insurance are subject to the approval of the Department of General Services, and Grantee agrees that no work or services shall be performed prior to the giving of such approval. In the event the Grantee fails to keep in effect at all times insurance coverage as herein provided, the State may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.

The Department will not provide for nor compensate Grantee for any insurance premiums or costs for any type or amount of insurance.

SITE VISITS: Grantor staff, or its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If any site visit is made by Grantor on the premises of the Grantee or a subcontractor under an award, the Grantee shall provide and shall require subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Grantor staff or authorized representatives in the performance of their duties.

**EXHIBIT E**  
**PROTECTION OF CONFIDENTIAL AND SENSITIVE INFORMATION**

- I. For purposes of this Exhibit, "Grantee" means any Grantee or researcher, including a Non-State Entity Grantee or researcher, receiving funds from, doing business with, conducting research for, or performing services for the Grantor pursuant to an Agreement, purchase order, research agreement, grant or loan agreement, joint powers agreement, public works Agreement, or other contractual vehicle (collectively "Agreement"). The term "Grantee" also includes Grantee's officers and employees and Affiliates. For purposes of this Exhibit, the term "Affiliate" means a person or entity forming a partnership, joint venture, subcontract, sales Agreement, or other legal relationship with Grantee to carry out the terms of the Agreement.
- II. This Exhibit terms shall apply to all Grantees who have an Agreement with the Grantor and require or permit access to Confidential or Sensitive Information in conducting business with the Grantor performing duties under an Agreement with the Grantor.
- III. Grantee shall impose all the requirements of this Exhibit on all of its officers, employees and Affiliates with access to Confidential and/or Sensitive Information.
- IV. For purposes of this Exhibit, "Non-State Entity" shall mean a business, organization or individual that is not a State entity, but requires access to State information assets in conducting business with the State. This definition includes, but is not limited to, researchers, vendors, consultants, and their subcontractors, officers, employees, and entities associated with federal and local governments and other states.
- V. For purposes of this Exhibit, "Confidential Information" means information, the disclosure of which is restricted or prohibited by any provision of State or federal law or which is treated as privileged or confidential under such laws. Such Confidential Information includes, but is not limited to, information that is exempt from disclosure under the California Public Records Act (Government Code sections 6250-6255), public social services client information described in California Welfare and Institutions code section 10850, and "personal information" about individuals as defined in California Civil Code Section 1798.3 of the Information Practices Act (IPA) if the disclosure of the "personal information" is not otherwise allowed by the IPA. Such Confidential Information may also include financial, statistical, personal, technical, and other data and information relating to operation of the Department.
- VI. For purposes of this Exhibit, "Sensitive Information" means information that requires special precautions to protect it from unauthorized modification or deletion. Sensitive information may be either public records or Confidential Information. Examples include statistical reports, financial reports, and logon procedures.
- VII. Grantee shall take all necessary measures to protect Confidential or Sensitive Information to which it or its Affiliates gain access from unauthorized access (accidental or intentional), modification, destruction, or disclosure. These measures may include, but are not limited to: password protection of electronic data, encrypted transmission of electronic data, and secure mailing and locked storage of paper and taped copies. Such measures may also include establishment of secure workstations and maintenance of a secure workstation access log. Grantee's shall also apply appropriate security patches and upgrades and keep virus software up-to-date on all systems on which Confidential or Sensitive Information may be used.
- VIII. Grantee shall ensure that all media, including electronic media, containing Confidential or Sensitive Information, to which they are given access are protected at the level of the most confidential or sensitive piece of data on the media.

- IX.** Grantee and Affiliate personnel allowed access to Confidential and Sensitive Information shall be limited to those persons with a demonstrable business need for such access. Grantee shall maintain a current listing of all Grantee and Affiliate personnel with access to Confidential and Sensitive Information.
- X.** Grantee shall notify Grantor promptly if a security breach involving Confidential or Sensitive Information occurs or if Grantee becomes legally compelled to disclose any Confidential Information.
- XI.** Grantee shall comply with all State policies and laws regarding use of information resources and data, including, but not limited to, California Government Code section 11019.9 and Civil Code sections 1798 et seq. regarding the collection, maintenance and disclosure of personal and confidential information about individuals.
- XII.** If Grantee obtains access to Confidential Information containing personal identifiers, such as name, social security number, address, date of birth, race/ethnicity and gender of individuals, Grantee shall substitute non-personal identifiers as soon as possible.
- XIII.** All data, reports, information, inventions, improvements and discoveries used, compiled, developed, processed, stored or created by Grantee or Grantee's Affiliates using Confidential and/or Sensitive Information shall be treated as Confidential and/or Sensitive Information by the Grantee and Grantee's Affiliates. No such data, reports, information, inventions, improvements or discoveries shall be released, published or made available to any person (except to the Grantor) without prior written approval from the Grantor.
- XIV.** At or before the termination date of the Agreement, Grantee shall either (a) destroy all Confidential and Sensitive Information in accordance with approved methods of confidential destruction; or (b) return all Confidential and Sensitive Information to the Grantor; or (c) if required by law to retain such information beyond the termination date of the agreement, provide for the Grantor's review and approval a written description of (i) applicable statutory or other retention requirements; (ii) provision for confidential retention in accordance such requirements and the terms of this Exhibit and (iii) provision for eventual destruction in accordance with all applicable provisions of State and federal law using approved methods of confidential destruction.
- XV.** Grantee shall cooperate with the Grantor's Information Security Officer or designee in carrying out the responsibilities set forth in this Exhibit.

Failure to adhere to these requirements may be grounds for termination of the Agreement and for imposition of civil and criminal penalties.

**EXHIBIT E, ATTACHMENT 1**  
**NON-DISCLOSURE CERTIFICATE**

I hereby certify my understanding that access to Confidential and Sensitive Information is provided to me pursuant to the terms and restrictions of the **Protection of Confidential and Sensitive Information**, contained in Exhibit E between **American Rivers (Grantee)** and the **Sacramento-San Joaquin Delta Conservancy (Grantor)**. I hereby agree to be bound by those terms and restrictions. I understand that all Confidential and Sensitive Information, as defined in the **Protection of Confidential and Sensitive Information**, and any notes or other memoranda, or any other form of information, electronic or otherwise that copies or discloses Confidential Information, shall not be disclosed to anyone other than in accordance with the **Exhibit E, Attachment 1**. I acknowledge that a violation of this certificate may result in termination of the Agreement and/or imposition of civil or criminal penalties.

Signed: \_\_\_\_\_

Typed Name and Title: Kristin M. May, Chief Financial Officer

Representing (give name of Grantee/Affiliate): American Rivers, Inc.

Date: \_\_\_\_\_



**EXHIBIT F  
 GRANTEE CERTIFICATION CLAUSES**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Grantee to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Grantee Name (Printed)</i> American Rivers, Inc.		<i>Federal ID Number</i> 23-7305963
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i> Kristin M. May, Chief Financial Officer		
<i>Date Executed</i>	<i>Executed in the County of</i> District of Columbia	

**STATEMENT OF COMPLIANCE:**

1. Grantee has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

**DRUG-FREE WORKPLACE REQUIREMENTS:**

1. Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
2. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
3. Establish a Drug-Free Awareness Program to inform employees about:
  - a. the dangers of drug abuse in the workplace;
  - b. the person's or organization's policy of maintaining a drug-free workplace;
  - c. any available counseling, rehabilitation and employee assistance programs; and,
  - d. penalties that may be imposed upon employees for drug abuse violations.
4. Every employee who works on the proposed Agreement will:
  - a. receive a copy of the company's drug-free workplace policy statement; and,
  - b. agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Grantee may be ineligible for award of any future agreements if the Grantor determines that any of the following has occurred: (1) the Grantee has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

**NATIONAL LABOR RELATIONS BOARD CERTIFICATION:**

1. Grantee certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Grantee within the immediately preceding two-year period because of Grantee's failure to comply with an order of a Federal court which orders Grantee to

comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

EXPATRIATE CORPORATIONS:

1. Grantee hereby declares that it 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.

SWEATFREE CODE OF CONDUCT:

1. All Grantees providing services 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 furnished to the state pursuant to the Agreement 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 they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.
2. 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 contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the Grantee's compliance with the requirements under paragraph (a)

DOMESTIC PARTNERS:

1. For contracts over \$100,000 executed or amended after January 1, 2007, the Grantee certifies that Grantee is in compliance with Public Contract Code section 10295.3.

UNION ORGANIZING:

1. Grantee hereby certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote or deter union organizing.

**DOING BUSINESS WITH THE STATE OF CALIFORNIA**

**The following laws apply to persons or entities doing business with the State of California.**

**I. CONFLICT OF INTEREST:**

1. Current and Former State Employees: Grantee should be aware of the following provisions regarding current or former state employees. If Grantee has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.
  - a. Current State Employees: (PCC §10410)
    - (1) 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.
    - (2) No officer or employee shall contract on his or her own behalf as an independent Grantee with any state agency to provide goods or services.
  - b. Former State Employees: (PCC §10411)
    - (1) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a grant agreement 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 Agreement while employed in any capacity by any state agency.
    - (2) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a Agreement 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 Agreement within the 12-month period prior to his or her leaving state service.
2. Penalty for Violation: If the Grantee violates any provisions of above paragraphs, such action by Grantee shall render this Agreement void (PCC §10420).
3. Members of Boards and Commissions: Members of boards and commissions are exempt from the sections above if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem (PCC §10430(e)).
4. Representational Conflicts of Interest: The Grantee must disclose to the Grantor Project Manager any activities by Grantee or subcontractor personnel involving representation of parties, or provision of consultation services to parties, who are adversarial to the Grantor Program. The Grantor may immediately terminate this agreement if the Grantee fails to disclose the information required by this section. The Grantor may immediately terminate this Agreement if any conflicts of interest cannot be reconciled with the performance of services under this Agreement.
5. Financial Interest in Grants: Grantee should also be aware of the following provisions of Government Code §1090:

“Members of the Legislature, state, county district, judicial district, and city officers or employees shall not be financially interested in any Agreement made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.”

6. Prohibition for Consulting Services Contracts:

For consulting services contracts (see PCC §10335.5), the Grantee and any subcontractors (except for subcontractors who provide services amounting to 10 percent or less of the Grant price) may not submit a bid/SOQ, or be awarded a Grant agreement, for the provision of services, procurement of goods or supplies or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of such a consulting services Agreement (see PCC §10365.5).

II. LABOR CODE/WORKERS' COMPENSATION:

Grantee needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Grantee affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700) AMERICANS WITH DISABILITIES ACT: 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.)

III. GRANTEE NAME CHANGE:

An amendment is required to change the Grantee's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

IV. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

- a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the Grantee is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
- b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate Grantee performing within the state not be subject to the franchise tax.
- c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

III. RESOLUTION:

A county, city, district, or other local public body must provide the State 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 the agreement.

IV. AIR OR WATER POLLUTION VIOLATION:

Under the State laws, the Grantee shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) 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 (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

V. PAYEE DATA RECORD FORM STD. 204:

This form must be completed by all Grantees that are not another state agency or other governmental entity.

**EXHIBIT G**  
**REPORTS**

**(QUARTERLY, ANNUAL AND FINAL REPORT REQUIREMENTS)**

**OVERVIEW**

The Conservancy (Grantor) requires quarterly progress reports, as specified in the grant agreement. Quarterly reports are due on the 30<sup>th</sup> day of the month following the end of each quarter (see schedule below). Reports should be sent to the Grantor Project Manager.

This Progress Report form collects cumulative information over a calendar year. Answer questions only for the current quarter which information is being reported. Each quarterly report will be cumulatively added to the previous quarterly reports of that calendar year, culminating in a report that includes all four (4) quarterly reports for that calendar year.

At the end of each calendar year of the project term, the Grantee shall submit an Annual Report. This Annual Report will serve as a supplement to the 4<sup>th</sup> Quarter Report and will include information on progress accomplished during that calendar year, findings, conclusions, and plans for the next calendar year. A template of the Annual Report will be provided by the Delta Conservancy Grant Manager. The Grantee shall submit the completed Annual Report with the 4<sup>th</sup> Quarter Report within thirty (30) days following the end of the calendar year.

At the conclusion of the Project, the Grantee must submit a Draft Final Report to the Grantor Project Manager for review and approval within 30 days prior to the end date of the Grant term. The Draft Final Report shall summarize the life of the Grant Agreement and describe the results of the work and of the Project, including findings, conclusions, and recommendations for follow up, ongoing or future activities, accomplishments, and before and after pictures, as appropriate. Following any comments from the Grantor Project Manager, the Grantee shall submit the revised Final Report for review and approval within 30 days prior to the funding end date.

**REPORTING SCHEDULE**

• 1 <sup>st</sup> Quarter Progress Report	January 1 - March 31	Due April 30
• 2 <sup>nd</sup> Quarter Progress Report	April 1 - June 30	Due July 30
• 3 <sup>rd</sup> Quarter Progress Report	July 1 - September 30	Due October 30
• 4 <sup>th</sup> Quarter Progress Report	October 1 - December 31	Due January 30
• Annual Report	January 1 – December 31	Due January 30
• Draft Final Report	Start date – Funding End	Due 30 days prior to funding end date
• Final Report	Start date – Funding End	Due 30 days post funding end date

**DELTA CONSERVANCY PROP 1 GRANT PROGRAM  
 QUARTERLY PROGRESS REPORT FORM**

Recipient Name		Quarterly Report #		
Agreement Number		Date Report Submitted		
Agreement Term		Current Reporting Period	From:	To:

**Summary of Work Completed During This Reporting Period**  
 (Current Reporting Period Only)

Task #	Description of Progress	% of Task Complete	Consistent w/Exhibit A Schedule? Yes <input type="checkbox"/> No <input type="checkbox"/> If no, explain

**Quarterly Expenditure Projection Report**  
 (Current Reporting Period Only)

QUARTER	YEAR	ACTUAL	PROJECTED	CUMULATIVE
		\$	\$	\$
GRAND TOTAL				\$

- Quarter** - Start with the first quarter of your actual/projected expenditures.
- Actual** - Report only those expenditures which have been submitted and approved for payment.
- Projected** - Report your projected expenditures on a quarterly basis. (This information is required for State Treasurer's Office purposes.)
- Cumulative** - Subtotal your cumulative expenses on a quarterly basis for the life of your grant.

## QUARTERLY PROGRESS REPORT PAGE 2

**Summary:** Briefly summarize work completed for the current reporting period.

**1<sup>st</sup> Quarter:**

**2<sup>nd</sup> Quarter:**

**3<sup>rd</sup> Quarter:**

**4<sup>th</sup> Quarter:**

**Deliverables:** Refer to the Scope of Work/Budget in the Grant Agreement and list deliverables initiated or completed. Provide details of accomplishments by task. Include specific information about the progress (i.e. degree of completion) of achieving each deliverable to be completed under the agreement.

Task 1. –

**1<sup>st</sup> Quarter:**

**2<sup>nd</sup> Quarter:**

**3<sup>rd</sup> Quarter:**

**4<sup>th</sup> Quarter:**

Task 2. –

**1<sup>st</sup> Quarter:**

**2<sup>nd</sup> Quarter:**

**3<sup>rd</sup> Quarter:**

**4<sup>th</sup> Quarter:**

Task 3. –

**1<sup>st</sup> Quarter:**

**2<sup>nd</sup> Quarter:**

**3<sup>rd</sup> Quarter:**

**4<sup>th</sup> Quarter:**

**QUARTERLY PROGRESS REPORT  
 PAGE 3**

**Outputs/Outcomes:** Refer to Performance Measures Table in the Grant Agreement, and list outputs initiated or completed and how these outputs will lead to the project outcomes. In the table below, provide details of accomplishments during the reporting period by goal and output. For each output include associated task number, specific information about the progress (including % completion), and whether or not this information for each output is consistent with information and schedule in Exhibit A of the Grant Agreement.

Goals	Outputs	Scheduled Completion Date	Actual Completion Date	
<b>Goal 1:</b>				
	Output 1.1			
	1 <sup>st</sup> Quarter Summary of Progress and Status:  2 <sup>nd</sup> Quarter Summary of Progress and Status:  3 <sup>rd</sup> Quarter Summary of Progress and Status:  4 <sup>th</sup> Quarter Summary of Progress and Status:			
	Output 1.2			
	1 <sup>st</sup> Quarter Summary of Progress and Status:  2 <sup>nd</sup> Quarter Summary of Progress and Status:  3 <sup>rd</sup> Quarter Summary of Progress and Status:  4 <sup>th</sup> Quarter Summary of Progress and Status:			
	<b>Goal 2:</b>			
		Output 2.1		
1 <sup>st</sup> Quarter Summary of Progress and Status:  2 <sup>nd</sup> Quarter Summary of Progress and Status:  3 <sup>rd</sup> Quarter Summary of Progress and Status:  4 <sup>th</sup> Quarter Summary of Progress and Status:				
Output 2.2				
1 <sup>st</sup> Quarter Summary of Progress and Status:  2 <sup>nd</sup> Quarter Summary of Progress and Status:  3 <sup>rd</sup> Quarter Summary of Progress and Status:  4 <sup>th</sup> Quarter Summary of Progress and Status:				



## QUARTERLY PROGRESS REPORT PAGE 4

**Schedule:** Is the project on schedule per the schedule in the Grant Agreement? If not, what is not on schedule and why not?

**1<sup>st</sup> Quarter:**

**2<sup>nd</sup> Quarter:**

**3<sup>rd</sup> Quarter:**

**4<sup>th</sup> Quarter:**

**CEQA:** If applicable, explain how actions taken during each reporting period comply with CEQA requirements.

**1<sup>st</sup> Quarter:**

**2<sup>nd</sup> Quarter:**

**3<sup>rd</sup> Quarter:**

**4<sup>th</sup> Quarter:**

**EcoAtlas:** If applicable, explain efforts undertaken during each reporting period to maintain accurate and current data in EcoAtlas.

**1<sup>st</sup> Quarter:**

**2<sup>nd</sup> Quarter:**

**3<sup>rd</sup> Quarter:**

**4<sup>th</sup> Quarter:**

**Challenges:** Did organizational, staff, construction, or financial challenges or changes arise? If so, explain the effects that they may have on the project.

**1<sup>st</sup> Quarter:**

**2<sup>nd</sup> Quarter:**

**3<sup>rd</sup> Quarter:**

**4<sup>th</sup> Quarter:**

**Next Steps:** Explain what you plan to accomplish in the next quarter. Are there any anticipated changes to the grant agreement? Will you be able to stay on schedule and within the approved budget?

**1<sup>st</sup> Quarter:**

**2<sup>nd</sup> Quarter:**

**3<sup>rd</sup> Quarter:**

**4<sup>th</sup> Quarter:**

**QUARTERLY PROGRESS REPORT  
PAGE 5**

**Administrative Updates:** Note if there have been any changes to the address, project staff, agreement signatories, or other administrative issues this quarter.

**1<sup>st</sup> Quarter:**

**2<sup>nd</sup> Quarter:**

**3<sup>rd</sup> Quarter:**

**4<sup>th</sup> Quarter:**

**Other:** Describe any new or upcoming opportunities, significant events, and activities involving the organization. These may or may not be directly related to the project grant agreement.

**1<sup>st</sup> Quarter:**

**2<sup>nd</sup> Quarter:**

**3<sup>rd</sup> Quarter:**

**4<sup>th</sup> Quarter:**

**Attachments:** For each quarterly reporting period, list any relevant attachments to this report, including construction photographs, news articles, fliers, etc. If there are any lengthy documents or grant agreement deliverables, copy them to a CD (send no hard copies) and list them below.

**1<sup>st</sup> Quarter:**

**2<sup>nd</sup> Quarter:**

**3<sup>rd</sup> Quarter:**

**4<sup>th</sup> Quarter:**

I certify that these Quarterly Progress Reports are accurate and that this project is in compliance with the agreement. I further certify that any expenditure disclosed in these reports are allowed under the agreement and that all funds were expended for the purposes of the project.

Authorized Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

**DELTA CONSERVANCY PROP 1 GRANT PROGRAM  
 ANNUAL PROGRESS REPORT FORM**

Recipient Name		Quarterly Report #		
Agreement Number		Date Report Submitted		
Agreement Term		Current Reporting Period	From:	To:

**Summary:** Briefly summarize the major milestones of the past calendar year.

**Variations:** Have there been any major variances/alterations to the project (this includes changes to the tasks, outputs, outcomes, etc.)? If so, explain. In the explanation, include if and how these changes will affect the project schedule and/or budget.

**Lessons Learned:** Identify any important lessons learned in the past calendar year and explain if and how the project will be adapted as a result of these lessons.

**Forecasting:** What do you plan to accomplish in the next calendar year? Are there any anticipated changes to the scope of work regarding these next steps? Will you be able to stay on schedule and within the approved budget for these next steps?

I certify that this Annual Progress Report Summary is accurate and that this project is in compliance with the agreement. I further certify that any expenditure disclosed in this report is allowed under the agreement and that all funds were expended for the purposes of the project.

Authorized Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

**DELTA CONSERVANCY PROP 1 GRANT PROGRAM  
 FINAL REPORT FORM**

Grantee Name:		Date Draft Report Submitted:	
Agreement Number:		Date Final Report Submitted:	
Agreement Term:	From:	To:	

**Summary:** Summarize the objectives of the project, describing if and how they were achieved.

**Discussion of Findings and Conclusions:** Discuss the overall findings and conclusions of the project.

**Outputs/Outcomes:** Refer to the Performance Measures Table in the Grant Agreement, and list outputs completed and how these outputs are advancing project outcomes. In the table below, provide details of accomplishments during the grant term by goal and output. For each output include associated task number, specific information about the progress (including % completion), and whether or not this information for each output is consistent with information and schedule in Exhibit A of the Grant Agreement.

Goals	Outputs	Scheduled Completion Date	Actual Completion Date
Goal 1:			
	Output 1.1		
	Final Summary of Progress and Status:		
	Output 1.2		
	Final Summary of Progress and Status:		
Goal 2:			
	Output 2.1		
	Final Summary of Progress and Status:		
	Output 2.2		
	Final Summary of Progress and Status:		

**EXHIBIT H**  
**GRANTEE'S RELEASE**

**Instructions to Grantee:**

**Submit this form with final invoice(s) bearing original authorized signature.**

**Submission of Final Invoice**

Pursuant to **Agreement number Prop1-2015-Y1-009** entered into between Grantor and the Grantee (identified below) the Grantee does acknowledge that final payment has been requested via **invoice number(s)** \_\_\_\_\_ in the **amount(s) of \$** \_\_\_\_\_ and **dated** \_\_\_\_\_. If necessary enter "See Attached" in the appropriate blocks and attach a list of invoice numbers dollar amounts and invoice dates.

**Release of all Obligations**

By signing this form, and upon receipt of the amount specified in the invoice number(s) referenced above, the Grantee does hereby release and discharge the State, its officers, agents and employees of and from any and all liabilities, obligations, claims, and demands whatsoever arising from the above referenced Agreement.

**Repayments Due to Audit Exceptions / Record Retention**

By signing this form, Grantee acknowledges that expenses authorized for reimbursement does not guarantee final allowance of said expenses. Grantee agrees that the amount of any sustained audit exceptions resulting from any subsequent audit made after final payment will be refunded to the State.

All expense and accounting records related to the above referenced Agreement must be maintained for audit purposes for no less than three years beyond the date of final payment, unless a longer term is stated in said Agreement.

**Reminder to Return State Equipment/Property (If Applicable)**

(Applies only if equipment was provided by the Grantor or purchased with or reimbursed by Agreement funds) Unless the Grantor has approved the continued use and possession of State equipment through the grant end date (as defined in the above referenced Agreement) or for use in connection with the another Grant agreement with the Grantor, Grantee agrees to promptly initiate arrangements to account for and return said equipment to the Grantor, if said equipment has not passed its useful life expectancy as defined in the above referenced Agreement.

**Patents / Other Issues**

By signing this form, Grantee further agrees, in connection with patent matters and with any claims that are not specifically released as set forth above, that it will comply with all of the provisions contained in the above referenced Agreement, including, but not limited to, those provisions relating to notification to the State and related to the defense or prosecution of litigation.

**SIGN AND DATE THIS DOCUMENT ONLY WHEN ATTACHING TO FINAL INVOICE**

Grantee's Legal Name (as on Agreement): \_\_\_\_\_

Signature of Grantee or Official Designee: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name/Title of Person Signing: \_\_\_\_\_

**EXHIBIT I (EXAMPLE)**  
**POSTCONSUMER-CONTENT CERTIFICATION**

**STATE AGENCY BUY RECYCLED CAMPAIGN (SABRC)**

The State of California is required to purchase recycled-content products rather than non-recycled products whenever price, quality, and availability are comparable. Furthermore, each State agency is required to purchase recycled-content products in sufficient quantities to ensure that mandated recycled-content product procurement goals are attained within eleven product categories. These eleven product categories and their respective minimum recycled-content requirements are outlined below.

In order to help State agencies identify all reportable purchases and all reportable recycled-content product purchases, Product suppliers are mandated by the California Public Contract Codes to certify the minimum, if not the exact recycled content, both secondary and post consumer material, of all the products, materials, goods, and supplies offered or sold to the State. **(State agencies are also required to obtain this information from all Grantees.)** Collectively, these mandates are referred to as the [State Agency Buy Recycled Campaign](#) (SABRC).

Regardless of the recycled content, or even if the product has no recycled content, the Grantee must indicate that on the certification form or through some other form of written certification.

The 11 reportable product categories are described below.

**For further information regarding the specific details on these categories, go to the following webpage <http://www.ciwmb.ca.gov/BuyRecycled/StateAgency/Buying.htm>**

(See footnotes on the back of this page).

**FOOTNOTES:**

1. "Postconsumer recycled-content material" is defined as products that were bought, used, and recycled by consumers. For example, a newspaper that has been purchased, recycled, and used to make another product would be considered postconsumer material.
2. "Product category" refers to one of the categories listed below, into which the reportable purchase is best placed.
3. If the product does not belong in any of the product categories, enter "N/A." Common "N/A" products include wood products, natural textiles, aggregate, concrete, and electronics such as computers, TV, software on a disk or CD, and telephones.
4. Reused or refurbished products, there is no minimum content requirement. (PCC 12209 (l))

Code	Product Categories	Product Examples	Minimum Postconsumer Content Requirement
		<i>Examples are inclusive but are not limited to the individual product.</i>	
1	Paper Products	Paper janitorial supplies, cartons, wrapping, packaging, file folders, and hanging files, building insulation and panels, corrugated boxes, tissue, and toweling.	30 percent by fiber weight postconsumer fiber.
2	Printing and Writing Papers	Copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications.	30 percent by fiber weight postconsumer fiber.
3	Mulch, Compost, and Co-compost Products	Soil amendments, erosion controls, soil toppings, ground covers, weed suppressants, and organic materials used for water conservation; yard trimmings and wood byproducts that are separated from the municipal solid waste stream or other source of organic materials such as biosolids or other comparable substitutes such as livestock, horse, or other animal manure, food residues or fish processing byproducts; mechanical breakdown of materials.	80 percent recovered material that would otherwise be normally disposed of in a landfill.
4	Glass Products	Windows, test tubes, beakers, laboratory or hospital supplies, fiberglass (insulation), reflective beads, tiles, construction blocks, desktop accessories, flat glass sheets, loose-grain abrasives, deburring media, liquid filter media, and containers.	10 percent postconsumer, by weight.
5	Lubricating Oils	Intended for use in a crankcase, transmission, engine, power steering, gearbox, differential chainsaw, transformer dielectric, fluid, cutting, hydraulic, industrial, or automobile, bus, truck, vessel, plane, train, heavy equipment, or machinery powered by an internal combustion engine.	70 percent re-refined base oil.
6a	Plastic Products	Printer or duplication cartridges, diskette, carpet, office products, plastic lumber, buckets, wastebaskets, containers, benches, tables, fencing, clothing, mats, packaging, signs, posts, binders, sheet, buckets, building products, garden hose, and trays.	10 percent postconsumer, by weight.
6b	Printer or Duplication Cartridges		a. Have 10 percent postconsumer material, or b. Are purchased as remanufactured, or c. Are backed by a vendor-offered program that will take back the printer cartridge after their useful life and ensure that the cartridge is recycled and comply with the definition of recycled as set forth in section Public Contract Code 12156.
7	Paint	Water-based paint, graffiti abatement, interior and exterior, and maintenance.	50 percent postconsumer paint (exceptions when 50 percent postconsumer content is not available or is restricted by a local air quality management district, then 10 percent postconsumer content may be substituted).
8	Antifreeze	Recycled antifreeze, and antifreeze containing a bittering agent or made from polypropylene or other similar non-toxic substance.	70 percent postconsumer material.
9	Tires	Truck and bus tires, and those used on fleet vehicles and passenger cars.	Retreaded: Must use an existing casing that has undergone retreading or recapping process in accordance with Public Resource Code (commencing with section 42400).
10	Tire- Derived Products	Flooring, mats, wheelchair ramps, playground cover, parking bumpers, bullet traps, hoses, bumpers, truck bedliners, pads, walkways, tree ties, road surfacing, wheel chocks, rollers, traffic control products, mudflaps, and posts.	50 percent recycled used tires.
11	Metal	Staplers, paper clips, steel furniture, desks, pedestals, scissors, jacks, rebar, pipe, plumbing fixtures, chairs, ladders, file cabinets, shelving, containers, lockers, sheet metal, girders, building and construction products, bridges, braces, nails, and screws.	10 percent postconsumer material, by weight.
For additional information, please visit <a href="http://www.calrecycle.ca.gov/BuyRecycled/StateAgency/">www.calrecycle.ca.gov/BuyRecycled/StateAgency/</a>			

**RECYCLED CONTENT CERTIFICATION FORM**

**To be completed by the Grantee and returned to:**

Sacramento-San Joaquin Delta Conservancy  
 Grant Manager  
 1450 Halyard Drive, Suite 6  
 West Sacramento, CA 95691  
 Tel: (916) 375-2090  
 FAX: (916) 375-4948

GRANTEE SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINTED NAME OF PERSON COMPLETING FORM: Kristin M. May

AGREEMENT NUMBER: Prop 1-2015-Y1-19

DESCRIPTION	PERCENT RECYCLED BY WEIGHT		RECYCLED MATERIAL TYPE	BRAND
	POST CONSUMER (1)	TOTAL RECYCLED CONTENT (2)		
N/A			N/A	N/A

This form must be completed, signed, and returned by vendor, bidder, and/or Grantee. **State law requires** any and all recycled content of a product to be disclosed to the State by the manufacturer or supplier of the product. If a product contains no recycled content, either post-consumer or secondary material, the vendor/bidder/Grantee shall so certify.

POST CONSUMER (1) materials are defined as only those materials that have been disposed of as a solid waste at the completion of their life cycle. Secondary material (i.e., manufacturing waste) **should not** be counted in this percentage. The post-consumer content is usually the second percentage in the description of the item's recycled content. (See example below)

TOTAL RECYCLED CONTENT (2) is the sum total of **ALL** recycled content in the item including both secondary and post-consumer materials. Usually this percentage is shown as the first percentage in a recycled content description such as "Carton contains 100% recycled fiber, and 40% post-consumer fiber." In this example, the "100%" is the TOTAL recycled content and the "40%" is the POST CONSUMER recycled content.





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San Joaquin County

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Appointed Public Member

**Michael Cohen**  
California Department of  
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**Senator Bill Dodd**  
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**Mike Eaton**  
Appointed Public Member

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Jim Frazier**  
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**Darla Guenzler, PhD**  
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**John Laird, Secretary**  
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U.S. Bureau of Reclamation

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Conservation and  
Development Commission

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U.S. Fish and Wildlife  
Service

**Stu Townsley**  
U.S. Army Corps of  
Engineers

**Michael Villines**  
Central Valley Flood  
Protection Board

**Erik Vink**  
Delta Protection Commission

August 24, 2017

Kristin May  
Chief Financial Officer  
1101 14<sup>th</sup> NW, Suite 1400  
Washington, DC 20005

Dear Ms. May:

Enclosed, please find a copy of Informal Modification #1 for grant #Prop 1-Y1-2015-009, which removes and replaces Exhibit A – Scope of Work and Exhibit B – Budget Detail and Payment Provisions to reflect a funding shift. The modification is approved.

Please contact me at (916) 375-2091 if you have any questions regarding this contract or correspondence.

Sincerely,

Brandon Chapin, Contract Analyst  
Sacramento-San Joaquin Delta Conservancy  
1450 Halyard Drive, Suite 6  
West Sacramento, CA 95691

Modification Approval:

Aaron Haiman, Project Manager

24 Aug 2017  
Date

Enclosure

**EXHIBIT A – Informal Modification #1**  
**SCOPE OF WORK**

**Three Creeks Parkway Restoration Project**

**I. BACKGROUND**

The Ecosystem Restoration and Water Quality Grant Program was developed in response to the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1). Proposition 1 amended the California Water Code (CWC) to add, among other articles, Section 79738, authorizing the Legislature to appropriate funds to the Sacramento-San Joaquin Delta Conservancy (Conservancy / Grantor) to fund multi-benefit ecosystem and watershed protection and restoration projects that benefit the Delta.

**II. AUTHORITY**

To further the goals of Proposition 1, Grantor is entering into this Grant Agreement (Agreement) with American Rivers (Grantee) to provide funding for the completion of the activities set forth in this Agreement. Grantee is a Nonprofit, validly existing, and in good standing under the laws of California. Grantee has full power and authority to transact the business in which it is engaged and full power, authority, and legal right to execute and deliver this Agreement and incur and perform its obligations hereunder.

Although the grantee as authorized by the Agreement may utilize other entities to complete certain tasks identified within this Scope of Work (Exhibit A), Grantee is ultimately responsible for the completion of all activities set forth herein. Grantee's use of the Grant funds is limited to those expenditures necessary to implement the Project and that are eligible under applicable State of California law. Furthermore, Grantee's expenditure of Grant funds must be in accordance with Budget Detail and Payment Provisions (Exhibit B) and Budget Summary (Exhibit B, Attachment 1), and including all other Exhibits set forth within this agreement. Grantee may not transfer Grant funds between or among Budget line items without written approval from the Grantor.

**III. TERM OF AGREEMENT**

This Agreement shall run from its effective date through May 1<sup>st</sup>, 2032 (the "grant end date") unless otherwise terminated or amended as provided in this agreement. However, the project implementation and billing service period shall run through May 1<sup>st</sup>, 2020 (the "funding end date"). All work for which reimbursement of approved expenditures is requested shall end by the funding end date.

**IV. PROJECT STATEMENT**

Overview: Grantee and its partner the Contra Costa County Flood Control and Water Conservation District (District) propose a multi-benefit ecosystem restoration project at the confluence of Marsh, Sand, and Deer Creeks (Three Creeks) to convert a denuded flood control channel into a healthy riparian corridor. The Three Creeks Parkway Restoration Project will restore native vegetation on 12.5 acres along nearly a mile of Marsh Creek, and floodplain and riparian habitat along 4,000 linear feet of creek. The project team's overall goal is to improve habitat, flood management, water quality, and ecosystem resilience in the Marsh Creek watershed. This project is an early step in a larger effort to restore and improve habitat along the entire length of Marsh Creek from Mount Diablo to the Delta. The project also has the support of several other groups including the Friends of Marsh Creek Watershed (FOMCW), and the City of Brentwood (City).

1. Objectives(s): Specific objectives of this project are:

- a. Restore floodplain and native vegetation along 4,000 linear feet of Marsh Creek between Dainty Avenue and the Union Pacific Railroad.
- b. Improve habitat by restoring 12.5 weedy, ruderal and treeless acres with native vegetation to enhance the creek's ecosystem, including 3.6 acres of frequently inundated floodplain (seasonal wetland), 5.2 acres of woody riparian vegetation, and 5.3 acres of grasslands and native scrub that will provide habitat for several species covered by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP).

2. Project Description:
  - a. Location: The project is located in the Marsh Creek watershed in Contra Costa County. The project site falls within the city limits of Brentwood. See Project Map (Exhibit A, Attachment 1).
3. Equipment:

No equipment will be used during the term of this Agreement.
4. Project Implementation: Grantee will complete the tasks listed below and as stated in Grantee's proposal approved in the Fiscal Year 2015-16 Proposition 1 Grant Program solicitation process.

**Task 1) Grant Management, Administration and Reporting**

Task 1a – Land Tenure and Long Term Management and Maintenance. See Section 8 below. Before funding is disbursed, Grantee must provide the Grantor with land tenure documentation for the useful life of the project. The Grantee does not own the land on which the project is being implemented and must provide a Landowner Access Agreement signed by the Landowner and Grantee, approved by the Grantor, and recorded at the County Recorder's Office in which the project is located.

The Grantee is required to ensure that the project is maintained in conformance with the terms of this Grant Agreement for at least 15 years as required by the State General Obligation Bond Law, and in accordance with the Long Term Management and Maintenance plan described below in Section 7.

Task 1b – Delta Plan consistency. See section 12 (Delta Plan Consistency) below. This project is a covered action pursuant to the Delta Plan. The Grantor will not disburse construction funds until the project is certified as consistent with the Delta Plan.

Task 1c – Quarterly Invoices. The Grantee shall refer to Budget Detail and Payment Provisions (Exhibit B), to prepare and submit Quarterly Invoices to the Grantor.

Task 1d – Quarterly Progress Reports. The Grantee shall refer to Section V. Reports, and Reports (Exhibit H) to prepare and submit Quarterly Progress Reports to the Grantor. A "Sample Quarterly Progress Report Form" is provided.

Task 1e – EcoAtlas Data Upload. The Grantee shall create a new project record in EcoAtlas and upload any relevant project data (e.g., project map) to EcoAtlas prior to submitting the first Quarterly Report.

Task 1f – Annual Progress Reports. The Grantee shall refer to Section V. Reports, and Reports (Exhibit H) to prepare and submit Annual Progress Reports to the Grantor. A "Sample Annual Progress Report Form" is provided.

Task 1g and Task 1h – Draft Final Report and Final Report. The Grantee shall refer to Section V. Reports, and Reports (Exhibit H) to prepare and submit Draft and Final Reports to the Grantor.

**Task 2) CEQA and Permits**

In September, 2016, the District, the lead agency, certified the mitigated negative declaration for the project and made the required lead agency CEQA findings. The Grantor made its required responsible agency findings and approved funding for the project on November 21, 2016. The lead agency has not yet approved the project or filed its notice of determination. No funds will be disbursed pursuant to this agreement until the District approves the project. The District shall submit verification of this approval by May 1<sup>st</sup>, 2018.

The Grantee shall retain a consultant to assist the District in developing permit applications. Permits required for this project include: a Clean Water Act (Section 404) permit from the Army Corps of Engineers, a Lake or Streambed Alteration Agreement (Section 1600) from the California Department of Fish & Wildlife, a General Water Quality Certification for Small Habitat Restoration Projects (Section 401) permit from the State Water Resources Control Board, a Construction Activities (Storm Water General) permit from the State Water Resources Control Board, a Grading Permit from the city or county, a Floodway & Hydrological analysis from the Flood Control District, an Encroachment Permit from the East Bay Regional Park District.

**Task 3) Detail Design**

Task 3a – Subcontractor Selection. The Grantee or the District will select subcontractors for design development, Construction, Revegetation, and Trail Relocation. The Grantee and the District shall select subcontractors by a process that complies with the terms of this grant agreement and all applicable State and Federal regulations.

Task 3b – 30% Conceptual Design. The Grantee shall work with the District and appropriate subcontractor to refine the previously completed initial conceptual design and develop it into a 35% Conceptual Design.

Task 3c – 60% Conceptual Design. The Grantee shall work with the District and appropriate subcontractor to refine the 35% Conceptual Design from Task 3a and develop it into a 60% Conceptual Design.

Task 3d – Detailed Planting Plan. The Grantee shall work with the Vegetation Subcontractor to develop a Planting Plan that will use best available science and management practices to dictate how the native vegetation will be installed along 4,000 linear feet of creek bank. The Planting Plan will specify the number and approximate location of plants per species, the form in which to install the plants, irrigation and/or management needs, and the installation schedule. All conservation practices will be implemented and management plans developed according to Natural Resources Conservation Service standards.

Task 3e – Final Design. The Grantee shall work with the District and appropriate subcontractor to refine the 60% Conceptual Design from Task 3b and develop it, along with the planting plan from Task 3c, into a Final Design.

Task 3f – Bid Package. The Grantee will prepare a bid package that will guide the award of subcontracts to qualified construction subcontractors to perform the required activities called for in the Final Design from Task 3d. The Grantee and the District shall select subcontractors by a process that complies with the terms of this grant agreement and all applicable State and Federal regulations.

**Task 4) Construction**

Task 4a – Widen 4,000 Linear Feet of Chanel and Construct 30-60ft Wide Floodplain Bench. The Grantee or District shall retain a construction contractor, selected according to the Bid Package from Task 3e, to widen 4,000 linear feet of channel and excavate a new floodplain bench. This floodplain bench will be between 30 and 60 feet in width. Construction will be completed and a report of all construction activities conducted, and deliverables completed, by the Grantee or subcontractors will be submitted to the Delta Conservancy Grant Manager as part of the following quarterly report.

Task 4b - Grade and create new trail crossings. The Grantee or the District shall retain a construction contractor, selected according to the Bid Package from Task 3e, to grade creek banks and create sites for new trail crossings under where Central Blvd and Dainty Ave cross Marsh Creek.

**Task 5) Revegetation**

Task 5a – Revegetate 12.5 acres with Native Vegetation. The Grantee or the District shall retain a revegetation contractor, selected according to the Bid Package from Task 3e, to revegetate 12.5 acres with native vegetation including 300 15-gallon trees, 11,000 one-gallon plants, 2,000 five-gallon plants, and 30,000 square yards of native hydro-seed.

**Task 6) Public Outreach and Agency Coordination**

Task 6a – Public Presentations in Brentwood and Oakley. The Grantee shall hold three presentations about the project at public meetings in Brentwood and Oakley.

Task 6b – Installation of Interpretive Signs. The Grantee shall install two interpretive signs along the creek. Signs will include acknowledgement in compliance with the acknowledgement section of this grant agreement.

**Task 7) Monitoring and Maintenance**

Task 7a – Annual Salmon Counts. The Grantee shall, in partnership with volunteers and staff of the Friends of Marsh Creek Watershed, conduct salmon spawner surveys based on protocols outlined in the California Department of Fish and Wildlife 'California Salmonoid Stream Habitat Restoration Manual'. Salmon counts will take place after heavy rains between Oct 1<sup>st</sup> and Feb 28<sup>th</sup> in each funding year. Survey reports will be submitted to the Grantor Grant Manager as part of the following quarterly report.

Task 7b – Seasonal Water Quality Sampling. The Grantee shall, in partnership with volunteers and staff of the Friends of Marsh Creek Watershed, conduct seasonal water quality sampling at five (5) locations along the creek where Friends of Marsh Creek Watershed staff and volunteers have historically collected such data. Sampling shall occur during spring and fall of each funding year. Water quality sampling parameters shall include dissolved oxygen, pH, temperature, turbidity, and conductivity. Results from these sampling efforts will be submitted to the Grantor Grant Manager as part of the following quarterly report.

Task 7c – Vegetation Survival Monitoring and Maintenance. The Grantee shall oversee a subcontractor to conduct vegetation transects and photo monitoring every spring of the funding period, after the project is implemented, to monitor survival of plantings. Success criteria will be based on the percent survival and percent cover of plants. These percentages will be based on reference sites along Marsh Creek and will consider flood conveyance requirements. If necessary, replacement plants will be installed to meet success criteria during the three years after initial project installation. Results from these monitoring and maintenance efforts will be submitted to the Grantor Grant Manager as part of the following quarterly report.

Task 7d – Long-term Maintenance Agreement. The Grantee shall draft and circulate the Three Creeks Operation and Maintenance Manual (Manual) to the District, the City of Brentwood, and the East Bay Regional Park District. Editing and consultation on the Manual will continue until all parties agree to the terms and the Manual is finalized. The final Manual will be submitted to the Grantor Grant Manager as part of the final annual report.

Schedule and List of Deliverables: Any conditions that must be met before a task can be undertaken or funded should be indicated in the Schedule and List of Deliverables table below. (e.g., no construction until Delta Plan consistency determined).

<u>Task</u>	<u>Task Title</u>	<u>Deliverables and Key Project Milestones</u>	<u>Estimated Completion Dates</u>	<u>Conditions</u>
1	Grant Management, Administration and Reporting	a. Land Tenure Agreement b. Delta Plan Consistency c. Quarterly Invoices d. Quarterly Progress Reports e. EcoAtlas Data Upload f. Annual Progress Reports g. Draft Final Report h. Final Report	a. December 2017 b. Prior to disbursement of construction funds c. Not more frequently than quarterly in areas (see Exhibit B) d. Within thirty (30) days following each quarterly month following Agreement execution through final report deliverable. e. To be included with the first Quarterly Report f. Within thirty (30) days following each annual cycle g. Due thirty (30) days prior to funding end date h. Due thirty (30) days post funding end date	a. <u>Land Tenure</u> Land tenure agreement required prior to disbursement of funds. b. <u>Covered Action</u> This project is a covered action and Certification of Consistency with Delta Plan is required prior to disbursement of construction funds.
2	Permit Compliance as required	a. Proof of Permit Compliance.	a. Due two (2) weeks prior to bid solicitation	a. If the lead agency does not approve the project and file their Notice of Determination with the state clearinghouse by May 1 <sup>st</sup> , 2018, or if any lawsuits are brought against the lead agency, this Agreement will be rendered null and terminated.
3	Detailed design	a. Subcontractor Selection b. 35% conceptual design c. 50% designs d. Detailed planting plan e. Final design f. Bid package	a. Prior to work beginning b. Jan 2017 c. August 2017 d. October 2017 e. March 2018 f. April 2018	

4	Construction	<ul style="list-style-type: none"> <li>a. Widen 4,000 linear feet of channel and construct 30-60 feet wide floodplain bench</li> <li>b. Grade and create new trail crossings under Central Blvd. and Dainty Ave.</li> </ul>	<ul style="list-style-type: none"> <li>a. Oct 2018</li> <li>b. Oct 2018</li> </ul>	Grantor will not issue construction funds until all permits have been demonstrated to be in place
5	Revegetation	<ul style="list-style-type: none"> <li>a. Revegetate 12.5 acres with native vegetation</li> </ul>	<ul style="list-style-type: none"> <li>a. April 2020</li> </ul>	
6	Public Outreach and Agency Coordination	<ul style="list-style-type: none"> <li>a. Public presentations in Brentwood and Oakley</li> <li>b. Installation of interpretive signs</li> </ul>	<ul style="list-style-type: none"> <li>a. Oct 2018</li> <li>b. April 2020</li> </ul>	
7	Monitoring and maintenance	<ul style="list-style-type: none"> <li>a. Annual salmon counts</li> <li>b. Seasonal water quality sampling at five locations along the creek where FOMCW has historically collected data</li> <li>c. Three years of vegetation monitoring and maintenance to ensure survival of plantings and replacement of failed plantings</li> <li>d. Long-term maintenance agreement between the District, the City of Brentwood, and the East Bay Regional Park District, which maintains a trail through the site</li> </ul>	<ul style="list-style-type: none"> <li>a. Winter 2017, 2018 and 2019</li> <li>b. Fall 2017, spring 2018, fall 2018, spring 2019, fall 2019, spring 2020</li> <li>c. Spring 2019, Spring 2020</li> <li>d. April 2020</li> </ul>	

5. **Performance Measure Tracking:** Grantee will track performance in accordance with the Performance Measures Table below as approved in the grant proposal and revised with the input of the Conservancy.

Objective	Outcome	Outputs	Related Tasks	Output Completion Dates
1. Increase area and frequency of inundated floodplain and native vegetation along the Marsh Creek flood control channel.	A. Increase in the area and duration of inundation of the excavated area over starting baseline conditions.	1.1 Excavate and widen channel to create 4,000 linear feet of floodplain bench.	1.1 Task 4	1.1 August 2017
		1.2 Reduce bank slope to 3:1 or greater.	1.2 Task 4	1.2 August 2017
2. Create habitat for multiple terrestrial species, including several species covered by the East Contra Costa Habitat Conservation Plan.	A. Increase in the numbers of native plants observed on the project site compared with starting baseline conditions.	2.1 Improve floodplain habitat by installing native vegetation along 4,000 linear feet of Marsh Creek between Dainty Avenue and the Union Pacific Railroad.	2.1 Task 5	2.1 October 2017
	B. Increase in the diversity and abundance of native avian, and plant species occurring on the project site as compared with starting baseline conditions.	2.2 Restore 12.5 acres, including 3.6 acres of frequently inundated floodplain (seasonal wetland), 5.2 acres of woody riparian vegetation, and 5.3 acres of grasslands and native scrub.	2.2 Task 5	2.2 October 2017
3. Improve water quality and create habitat for multiple aquatic species, including several species covered by the East Contra Costa Habitat Conservation Plan.	A. Increase in the abundance of salmon and native aquatic macroinvertebrates occurring in Marsh Creek over starting baseline conditions.	3.1 Maintain water temperatures within established bounds.	3.1 Task 7	3.1 May 2019
		3.2 Conduct annual salmon counts.	3.2 Task 7	3.2 May 2019

6. **Monitoring and Assessment:** Grantee will conduct monitoring consistent with Grant Guidelines and as provided and approved in the grant proposal unless or until a revised plan is reviewed and approved by the Grantor. An updated plan for monitoring and adaptive management is being developed by the Grantee in consultation with the Delta Stewardship Council as part of the Delta Plan consistency certification. Once finalized and approved by the Grantor, the updated plans will supersede the plan provided in the approved grant application. As described in Data Management section below, all monitoring data must be reported in the State centralized system.
7. **Data Management:** Wetland and riparian restoration project data shall be uploaded to EcoAtlas. As applicable, all other project data shall be uploaded to EcoAtlas. The first data upload shall include the creation of a project record and will be completed and reported on in the first Quarterly Report submitted to the Grantor Project Manager. Wetland and riparian monitoring data shall be uploaded to statewide data systems, as applicable, in a manner that is compatible and consistent with the Wetland and Riparian Area Monitoring Plan (WRAMP) framework. The project includes water quality monitoring data collection, which shall be collected and reported to the California Environmental Data Exchange Network (CEDEN).



Monitoring data generated by this project will be collected and analyzed by consultants, written up into monitoring reports, distributed to all project partners including the Contra Costa Clean Water Program and the East Contra Costa Habitat Conservation Plan, and posted on the FOMCW website. All GIS shape files and associated data will be uploaded to Data Basin and EcoAtlas.

8. Land Tenure and Long Term Management and Maintenance: The State General Obligation Bond Law limits the use of bond funds to the construction, acquisition, and long-term improvement of capital assets that have an expected useful life of at least fifteen years (section 16727(a)). Before funding is dispersed, Grantee must provide the Grantor with land tenure documentation for the useful life of the project. The Grantee does not own the land on which the project is being implemented and must provide a Landowner Access Agreement signed by the Landowner and Grantee, approved by the Grantor, and recorded at the County Recorder's Office in which the project is located.

The Grantee is required to ensure that the project is maintained in conformance with the terms of this Grant Agreement for at least 15 years as required by the State General Obligation Bond Law, and in accordance with the Long Term Management and Maintenance plan described here:

Long term management and maintenance of the project will be undertaken by the Contra Costa County Water Conservation & Flood Control District in perpetuity. The District is the owner of the property. The Landowner Access Agreement shall require the District to maintain the project in conformance with the Grant Agreement.

9. Adaptive Management: Grantee will develop and implement an Adaptive Management Plan consistent with Grant Guidelines and the Delta Stewardship Council's Adaptive Management Framework, and as provided and approved in the grant proposal unless or until a revised plan is reviewed and approved by the Grantor.

An updated plan for monitoring and adaptive management is being developed by the Grantee. Once finalized and approved by the Grantor, the updated plan will supersede the information provided in the approved application.

10. California Environmental Quality Act (CEQA): In September, 2016, the District, the lead agency, certified the mitigated negative declaration for the project, adopted the Mitigation, Monitoring and Reporting Program (MMRP), and made the required lead agency CEQA findings. The Delta Conservancy made its required responsible agency findings and approved the MMRP on November 21, 2016 (Resolution 2016-016). The grantee must report this compliance with the MMRP in writing as part of the Grantee's quarterly, annual, and final reports to the Grantor as a responsible agency.
11. Other Regulatory Compliance: Grantee will ensure that all permits, licenses, and certifications necessary to implement the Project have been secured prior to construction. The Grantee is solely responsible for ensuring that the Project meets the terms of its environmental compliance. Grantor will not issue construction funds until all permits are in place.

This project will require the following permits to be secured: U.S. Army Corps of Engineers Clean Water Act: Section 404 Permit (anticipated 1/1/2017), California Department of Fish and Wildlife lake or Streambed Alteration Agreement: Section 1600 (anticipated 1/1/2017), State Water Resources Control Board 401 General Water Quality Certification for Small Habitat Restoration Projects Permit (anticipated 1/1/2017), State Water Resources Control Board Construction Activities Storm Water General Permit (anticipated 1/1/2017), City/County Grading Permit (anticipated 1/1/2017), Flood Control District Floodway & Hydrological Analysis (anticipated 10/1/2016), and East Bay Regional Park District Encroachment Permit (anticipated 1/1/2017)(see attached Environmental Compliance Checklist).

12. Delta Plan Consistency: This project is a covered action pursuant to the Delta Plan. The Grantor will not disburse Construction funds until the project is certified as consistent with the Delta Plan.

The Delta Stewardship Council (Council) has been consulted, and a Covered Action Checklist has been completed (see attached Covered Action Checklist, Exhibit A, Attachment 2). The District, as the lead agency will file the certification of consistency in the Council's online system. The certification filed with the Council must allow 30 days from filing the certification with no valid appeals in order to be consistent with the Delta Plan. (See Task 1b).

13. Plan for Signs: The Grantee shall include acknowledgement requirements which include the following disclosure statement in any document, written report, or brochure prepared in whole or in part pursuant to this Agreement (e.g. in posters, reports, publications, signs, presentation, websites, etc.):

"Funding for this project has been provided in full or in part through an Agreement with the Sacramento-San Joaquin Delta Conservancy (Conservancy) pursuant to The Water Quality, Supply, and Infrastructure Improvement Act of 2014 (CWC §79707[g]). The contents of this document do not necessarily reflect the views and policies of the Conservancy, nor does mention of trade names or commercial products constitute endorsement or recommendation of use."

Grantee shall include a provision that incorporates these requirements in each of its subcontracts for work under this Agreement.

Grantee shall notify the Grantor at least ten (10) working days prior to any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by Grantor representatives.

**V. CONTACTS**

The Project Officials during the term of this Agreement are:

<b>Sacramento-San Joaquin Delta Conservancy Project Manager:</b>	<b>American Rivers Project Manager:</b>
<b>Name:</b> Aaron N.K. Haiman, Environmental Scientist <b>Address:</b> 1450 Halyard Drive, Suite 6 West Sacramento, CA 95691 <b>Phone:</b> 916-376-4023 <b>Email:</b> aaron.haiman@deltaconservancy.ca.gov	<b>Name:</b> John Cain, Conservation Director <b>Address:</b> 2150 Allston Way, Suite 320 Berkeley, CA 94704 <b>Phone:</b> 510-809-8010 x3 <b>Email:</b> jcain@amrivers.org

Direct all administrative inquiries to:

<b>Sacramento-San Joaquin Delta Conservancy Grant Manager:</b>	<b>American Rivers Chief Financial Officer:</b>
<b>Name:</b> Jessica O'Connor <b>Address:</b> 1450 Halyard Drive, Suite 6 West Sacramento, CA 95691 <b>Phone:</b> (916) 375-2090 <b>Email:</b> joconnor@deltaconservancy.ca.gov	<b>Name:</b> Kristin May <b>Address:</b> 1101 14 <sup>th</sup> St., NW, Suite 1400 Washington, DC 20005 <b>Phone:</b> 202-347-7550 <b>Email:</b> kmay@amrivers.org

Either party may change the point of contact at any time by providing a ten (10) day advance written notice to the other party.

## VI. REPORTS

1. Report Schedule: The following reports are required to be submitted to the Grantor Project Manager in accordance with Exhibit A, Scope of Work and all other Exhibits of this Agreement and are due within thirty (30) days following the end of the calendar quarter:

• 1 <sup>st</sup> Quarter Progress Report	January 1 - March 31	Due April 30
• 2 <sup>nd</sup> Quarter Progress Report	April 1 - June 30	Due July 30
• 3 <sup>rd</sup> Quarter Progress Report	July 1 - September 30	Due October 30
• 4 <sup>th</sup> Quarter Progress Report	October 1 - December 31	Due January 30
• Annual Report	January 1 – December 31	Due January 30
• Draft Final Report	Start date – Funding End	Due 30 days prior to funding end date
• Final Report	Start date – Funding End	Due 30 days post funding end date

The Grantor reserves the right to require reports more frequently than on a quarterly basis if necessary, but no more than once a month.

2. Progress Reports: Grantee agrees to provide all technical and administrative services as needed for Agreement completion. Grantee agrees to monitor and review all work performed; and coordinate budgeting and scheduling to assure that the Agreement is completed within budget, on schedule, and in accordance with approved procedures, applicable laws, and regulations.
  - a. The Grantee ensures that the Agreement requirements are met by submitting quarterly progress reports (Exhibit G) to the Grantor Project Manager. Reporting shall be required even if no grant related activities occurred during the reporting period. The Grantee shall document all activities and expenditures in progress reports, including work performed by contractors.
  - b. The Quarterly Progress Report (Exhibit G) shall describe activities undertaken and accomplishments of each task during the quarter, milestones achieved, and will also include an evaluation of project performance that links to the project's performance measures. The description of activities and accomplishments of each task shall be in sufficient detail to provide a basis for payment of invoices and shall be translated into percent of task work completed for the purpose of calculating invoice amounts. Photo-documentation and other measurements of progress will be included in the Quarterly Progress Reports as appropriate. Progress reports should directly address tasks, timelines, deliverables, and associated costs and cost share contributions as scheduled in Scope of Work (Exhibit A) and Budget Detail and Payment Provisions (Exhibit B and Exhibit B, Attachment 1, 2).
  - c. The Quarterly Expenditure Projections (Exhibit G) shall reflect both actual and projected expenditures. The sum of all quarterly expenditure projections should equal that of approved Grant amount.
  - d. Grantee must monitor and report project performance with respect to the stated benefits identified in the approved grant proposal, and as described in the Performance Measures Table above. The Performance Measures Table should:
    - Provide a framework for assessment and evaluation of project performance.
    - Identify measures that can be used to monitor progress towards achieving project goals and desired outcomes.
    - Provide a tool for grantees and grantor project managers to monitor and measure project progress and guide final project performance reporting that will fulfill the grant agreement requirements.
    - Provide information to help improve current and future projects.
    - Quantify the value of public expenditures to achieve environmental results.
  - e. Grantee must document steps taken in soliciting and awarding the subcontractors and submit them to the Grantor for review and document all subcontractor activities in the Quarterly Progress Reports (Exhibit H).

3. Annual Report: At the end of each calendar year of the funding term of agreement, the Grantee shall submit an Annual Report. This Annual Report will serve as a supplement to the 4<sup>th</sup> Quarter Report and will include information on progress accomplished during that calendar year, findings, conclusions, and plans for the next calendar year. A template of the Annual Report is provided in Reports (Exhibit G). The Grantee shall submit the completed Annual Report with the 4<sup>th</sup> Quarter Report within thirty (30) days following the end date of the calendar year.
4. Draft and Final Report: At the end of the funding term of agreement, the Grantee must submit a Draft Final Report to the Grantor Project Manager for review and approval within 30 days prior to the funding end date. The Draft Final Report shall summarize the life of the Grant Agreement and describe the results of the work and of the Project, including findings, conclusions, and recommendations for follow up, ongoing or future activities, accomplishments, and before and after pictures, as appropriate. Following any comments from the Grantor Project Manager, the Grantee shall submit the revised Final Report for review and approval within 30 days after the funding end date.
  - a. At the end of the funding term of this agreement and prior to final payment, the Grantee Project Representative shall include with final invoice Exhibit H, Grantee's Release to the Grantor.
  - b. Grantee agrees that property and facilities acquired or developed pursuant to this Agreement shall be available for inspection upon request by the Grantor.

**EXHIBIT B – Informal Modification #1**  
**BUDGET DETAIL AND PAYMENT PROVISIONS**

**I. BUDGET DETAIL**

The Grantee agrees to perform and complete the work described in Exhibit A, Scope of Work within the budget specified below for a total budget not to exceed \$836,409.

\$ 167,282 for the fiscal year (FY 2017-18).

\$ 585,486 for the fiscal year (FY 2018-19).

\$ 83,641 for the fiscal year (FY 2019-20).

**II. BUDGET MODIFICATIONS**

1. Changes to the line-item budget within a specific task may be made without formal amendment (not to exceed 10% and no more than \$5,000 of line-item) provided the change does not exceed the total amount of the agreement. The Grantee must adequately document the need for the change and all of the following requirements must be met:
  - a. The Grantee submits a written request for budget modification and explains the need for change(s) and specifically identifies item(s) to be reduced or increased.
  - b. The Grantor Project Manager approves such changes in writing prior to implementation. The Grantor shall have thirty (30) calendar days from receipt of the request to approve or deny the request for the exchange of funds between line items.
2. Any budget change not meeting the above conditions, including the addition of the new line items, shall be by formal agreement amendment.
3. Any budget modifications must meet requirements of Grant Guidelines for FY2015-16.

**III. INVOICE AND PAYMENT**

1. For tasks satisfactorily rendered, in accordance with the all Exhibits, terms and conditions of this Grant agreement; and upon receipt and approval of itemized invoice(s), and including any required progress reports or other mandatory documentation identified within this Agreement, the Grantor agrees to reimburse Grantee for actual expenditures of the tasks, no more frequently than quarterly in arrears, in accordance with the rates specified in Budget Summary (Exhibit B, Attachment 1).
2. The Grantor will only reimburse for expenses incurred through the funding end date of the agreement and will not accept an invoice for work that has not been approved and will return the invoice as disputed to the Grantee.
3. Each quarterly invoice submitted for payment must be accompanied by a Progress Report including a written description, not to exceed two pages in length; of the Grantee's performance under this grant since the time the previous such report was prepared. The report shall describe the types of activities and specific accomplishments during the period for which the payment is being made rather than merely listing the number of hours worked during the reporting period. If there is cost shares involved with the project, the final invoice must include a budget summary of cost share expenditures by fund source.
4. Invoices shall be submitted not more frequently than quarterly in arrears and will only be approved for payment after Grantor's Project Manager has reviewed the progress reports submitted by the Grantee and determines that the work is completed or that the progress of tasks completed is satisfactory for payment.

A sample invoice is provided in Exhibit B, Attachment 2 and may be submitted electronically to the Grantor Project Manager or by mail to Admin Accounting, but not both. Invoices received electronically will be printed and date stamped with the date the Grantor Admin unit receives the invoice. Invoices submitted by

mail shall include one (1) original invoice to the address below:

Sacramento-San Joaquin Delta Conservancy  
Attention: Admin Accounting  
1450 Halyard Drive, Suite 6  
West Sacramento, CA 95691

Invoices must include at the minimum the following information:

- Grant agreement number
- Invoice number
- Invoice date
- Performance service period (i.e., include terms "from" and to")
- Description of the work performed for the service period (included in progress report)
- Itemized cost and percent breakdown by Task and Deliverable and Outcome at the same or greater level of detail as indicated in this agreement
- Original receipts and supporting documentation of actual out-of-pocket expenses
- 100% time accounting timesheets for each person billing to the grant
- Subcontractor invoices for any subcontractor expenses being billed to the grant
- Total amount being billed for the service period, on or before the funding end date of the agreement
- Grantee's signature signed by an authorized official certifying that the expenditures claimed represent actual expenses for the tasks performed under this agreement.

In addition, if travel is a reimbursable expense, original receipts must be maintained to support the claim expenditures and attached to the invoice:

- Include travel expense amount in the total amount of invoice
  - Reimbursement rates for travel shall not exceed the amounts identified and according to CalHR current state rates, see <http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>
  - No travel outside the State of California by Grantee shall be reimbursed unless there is prior written authorization obtained from the Grantor.
5. Invoices submitted for payment must be within 30 days following the end of the calendar quarter in which the work was performed and costs incurred in the performance of the Agreement, unless the agreement has reached the funding end date, termination date, or alternate deadline is agreed to in writing by the Grantor Project Manager (see item VI. "Timely Submission of Final Invoice").

Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 917 et seq. Unless expressly exempted by statute, the Act requires state agencies to pay properly submitted, undisputed invoices not more than 45 days after (a) the date of the acceptance of performance of services; or (b) receipt of an undisputed invoice – whichever is later.

6. Invoices shall be paid based on actual expenses incurred and shall not exceed the total amount of this agreement. In the event actual expenditures differ from the estimated amounts of the budget, the Grantee's Project Representative and the Grantor's Project Manager may re-negotiate specific line-item adjustments provided the overall total project cost does not exceed the total agreement value (see item VIII. "Budget Modifications").

Costs and/or expenses deemed unallowable are subject to recovery by the Grantor (see item IX. "Recovery of Overpayments").

#### IV. ADMINISTRATIVE COSTS

1. Eligible Costs: Only project costs for items within the scope of the project and invoiced within the time frame of the funding end date of the agreement are eligible for reimbursement. Costs related to project-

specific performance measures and reporting are required to be addressed in the project budget.

Eligible administrative costs must be directly related to the project and may not exceed five (5) percent of the project implementation cost. To determine the amount of eligible administrative costs, the Grantee must first determine the cost of implementing the project, not including any administrative costs. Once the project implementation cost has been determined, the Grantee may calculate administrative costs and include them in the total grant request. Similar to the traditional definition of "overhead" and "indirect", administrative costs must be reasonable, allocable, and applicable and may include administrative support, office-related expenses, and personnel.

2. Ineligible Costs: Grant funding may not be used to establish or increase a legal defense fund or endowment, make a monetary donation to other organizations, pay for food or refreshments, or eminent domain processes.

#### **V. STATE BUDGET CONTINGENCY CLAUSE**

1. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this agreement does not appropriate sufficient funds for the program, this agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this agreement and Grantee shall not be obligated to perform any provisions of this agreement.
2. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this agreement with no liability occurring to the State, or offer an agreement amendment to Grantee to reflect the reduced amount.
3. If funding for any fiscal year is not obligated by the funder, the State shall have the option to either cancel this agreement with no liability occurring to the State, or offer an agreement amendment to the Grantee to reflect the reduced amount.

#### **VI. PROMPT PAYMENT CLAUSE**

1. Payment will be made in accordance with, and within the time specified in, Government Code, Chapter 4.5, commencing with Section 927. An incomplete/disputed invoice will be returned to Grantee per Government Code, Chapter 4.5, Section 927.6. Time specified for prompt payment in Government Code, Chapter 4.5, Section 927.4 commences upon submittal of a completed/undisputed invoice.

#### **VII. TIMELY SUBMISSION OF FINAL INVOICE**

1. A final undisputed invoice shall be submitted for payment no more than ninety (90) calendar days following the funding end date of this agreement, unless the Grantor Project Manager agrees to a later or alternate deadline in writing. The final invoice must be clearly marked "**FINAL INVOICE**" and "Exhibit H, Grantee's Release" must be attached, thus indicating that all payment obligations of the State under this Agreement have ceased and that no further payments are due or outstanding.
2. The State may, at its discretion, choose not to honor any delinquent final invoice if the Grantee fails to obtain prior written State approval of an alternate final invoice submission deadline. Written State approval shall be sought from the Grantor Project Manager prior to the funding end date or termination date of this agreement.

#### **VIII. REVIEWS**

1. Each party reserves the right to review service levels and billing procedures such as timesheets or other supporting documentation as these impact charges against this agreement.

**IX. RECOVERY OF OVERPAYMENT**

1. Grantee agrees that claims based upon the grant agreement audit finding and/or audit finding that is appealed and upheld, will be recovered by the State government by one of the following options:
  - a. Grantee's remittance to the State of the full amount of the audit exception within 30 days following the State's request for repayment; or
  - b. A repayment schedule, which is agreeable in writing to both the Grantor and the Grantee.
2. The State reserves the right to select which option will be enforced and the Grantee will be notified by the State in writing of the claim option to be utilized.
3. If the Grantee has filed a valid appeal regarding the report of audit findings, recovery of the overpayments will be deferred until a final administrative decision on the appeal has been reached.