

CALIFORNIA WILDLIFE CONSERVATION BOARD

GRANT AGREEMENT

Between

STATE OF CALIFORNIA, WILDLIFE CONSERVATION BOARD

and

**CONTRA COSTA COUNTY FLOOD CONTROL AND WATER
CONSERVATION DISTRICT**

for

LOWER WALNUT CREEK RESTORATION PROJECT

CONTRA COSTA COUNTY, CALIFORNIA

WC-1928KM

**State of California
Natural Resources Agency
Department of Fish and Wildlife
Wildlife Conservation Board**

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1. SCOPE OF AGREEMENT

Pursuant to the Wildlife Conservation Law of 1947, Chapter 4.0 of Division 2, (commencing with Section 1300), of the California Fish and Game Code; the WCB Climate Adaptation and Resilience Program [General Fund, Budget Act, Chapter 14 and 249, Statutes of 2017]; and the approval granted by the Wildlife Conservation Board on November 21, 2019, the Wildlife Conservation Board (Grantor) hereby grants to the Contra Costa Flood Control and Water Conservation District, a political subdivision of the State of California, a sum not to exceed one million, two hundred and fifty thousand dollars (\$1,250,000.00) (Grant Funds), upon and subject to the terms and conditions of this Grant Agreement (Agreement).

2. PURPOSES OF GRANT

Grantor is entering into this Agreement, and the Grant Funds shall be used, only for the purpose of assisting Grantee with the project generally described as: restore up to 400 acres of coastal wetlands and adjacent habitats at the mouth of Walnut Creek and its tributary, Pacheco Creek, to provide climate change adaptation and resilience benefits to ecosystems deemed moderately or highly vulnerable to climate change on approximately 400 acres of public land commonly known as Lower Walnut Creek, located in Contra Costa County, California as part of the Lower Walnut Creek Restoration Project (Project). The overall Project location is generally shown on the attached Exhibit A - LOCATION MAP. Grant funds will assist in implementation of the North and South Reaches of the Project, otherwise known as the Property.

3. CONDITIONS OF GRANT

Grantor's obligation to disburse Grant Funds under this Agreement is conditioned upon and subject to the satisfactory completion of all of the following conditions:

- 3.1 Grantor shall have reviewed and approved all documents pertaining to the Project, including, without limitation, feasibility and planning studies, designs, plans, budgets, cost estimates, timelines and agreements. Such review and approval by Grantor will be for compliance with this Agreement as well as funding and other requirements applicable to Grantor, and shall not be unreasonably withheld.
- 3.2 Grantor shall have reviewed and approved a certified resolution or other appropriate action of the governing board or governing body of Grantee, authorizing the execution and performance of this Agreement and the carrying out of the Project by Grantee.
- 3.3 Grantee shall have disclosed all funding sources for the Project, including all amounts applied for or obtained from sources other than Grantor. These amounts shall be reflected in the attached Exhibit B – BUDGET (Budget) by Budget category. As between Grantor and Grantee, Grantee shall be

responsible for any and all Project costs that exceed the amount of the Grant Funds provided under this Agreement.

- 3.4 The grant proposal shall have been approved by the Wildlife Conservation Board at a public meeting, this Agreement shall have been fully executed by Grantor and Grantee, and Grantee shall have received a written "Notice to Proceed" from Grantor. The approval of the grant proposal by the Wildlife Conservation Board, if such approval is given, shall not constitute authorization for the commencement of the Project or expenditure of Grant Funds. No expenditure made or activity initiated prior to Grantee's receipt of a written Notice to Proceed from Grantor will be eligible for reimbursement by Grantor.

4. DISBURSEMENTS

- 4.1 Upon satisfaction of all of the Conditions of Grant set forth in Section 3, above, and so long as Grantee is not in breach or default under this Agreement, Grantor agrees to disburse the Grant Funds to Grantee, in arrears, in installments as set forth in this Section 4. Disbursements shall be made not more frequently than monthly and disbursements of less than \$5,000.00 should be made not more frequently than quarterly. All disbursements shall be subject to the availability of funds for purposes of the Project as provided in Section 4.8.
- 4.2 Grantee shall request disbursement of Grant Funds by submitting a disbursement request to Grantor for approved budgeted work performed on the Project in accordance with Section 4.3. Disbursement shall be contingent upon approval of the disbursement request by Grantor.
- 4.3 The disbursement request must be submitted on Grantee's letterhead, signed by an authorized representative of Grantee, and include a written description of the work completed during the period of the disbursement request. Requests for disbursement must be itemized using the same categories included in the attached Budget. Exhibit C – DISBURSEMENT REQUEST TEMPLATE provides the format to use for submitting disbursement requests to Grantor. Each disbursement request shall contain supporting or back-up documentation for all amounts shown on the request, including receipts for all materials and supplies, all Grantee staff time shown by number of hours worked and hourly rate, and all contractor or sub-contractor services.
- 4.4 Grantor may withhold ten percent (10%) of the total approved amount from each disbursement (Retained Grant Funds) until Grantor has approved the completion of the Project, the final report required by Section 6.4, and the final request for disbursement.

- 4.5 Upon completion of Project activities, Grantee may request disbursement of the Retained Grant Funds. Grantee shall submit this request no later than thirty (30) days after the Projected Completion Date (as defined in Section 6.1).
- 4.6 Please submit disbursement requests electronically to WCB at WCBclerk@wildlife.ca.gov and WCB Project Manager (kurt.malchow@wildlife.ca.gov) with "Project ID 2019107 Invoice No. ____" in the subject line.

Alternatively, hard copy requests for disbursement can be sent to:

Wildlife Conservation Board
P.O. Box 944209
Sacramento, California 94244-2090
Attn: Kurt Malchow

- 4.7 Grantee shall reimburse Grantor for any erroneous disbursement of Grant Funds under this Agreement. Reimbursement shall occur within 30 days of written demand by Grantor. Interest shall accrue at the highest rate allowed by law from the time that reimbursement becomes due and owing until received by Grantor.
- 4.8 Despite any contrary provision of this Agreement, Grantor shall not be obligated to disburse any remaining unpaid portion of the Grant Funds unless and until sufficient funds identified for allocation to the Project (as further specified in the Funding Certification attached to this Agreement) are released by the State Treasurer's Office to Grantor for expenditure pursuant to this Agreement. No request for disbursement submitted prior to the release of such funds to Grantor shall be effective.
- 4.9 With the final invoice, Grantee shall provide a completed Final Match Accounting Form (Exhibit D – FINAL MATCH TEMPLATE) when Project work is completed. The completed Final Match Accounting Form shall identify and delineate all matching funds expended and in-kind services provided during the Grant term before Project completion and will be consistent with Exhibit B – BUDGET.

5. BUDGET AND INDIRECT COSTS

- 5.1 The attached Budget is an estimate of the Grantee's anticipated costs for the Project and discloses all funding sources for the Project, including all amounts applied for or obtained from sources other than Grantor. Should the Budget not disclose all funding sources for the Project, Grantor may refer this Agreement to

the Department of Finance for a Project audit. Grantee may seek additional funding from sources other than Grantor, with Grantor's approval, to cover cost increases or to reduce Grantor's cost share. Should Grantee obtain additional funds from sources other than Grantor, Grantee shall promptly notify Grantor of the amounts and sources of the additional funding and submit a proposed new budget reflecting any changes to Grantor for its approval.

When actual Project costs indicate that the costs of certain Budget categories payable by Grantor are higher than estimated, and these higher costs are offset by lower costs in other Budget categories payable by Grantor, the Grantee may submit a written request to Grantor to shift funds between such Budget categories. Contingencies shall be used only upon written approval by Grantor. Grantor shall approve or deny a requested Budget revision or use of contingencies in writing within 10 business days of receipt of Grantee's written request.

- 5.2 Indirect cost rates are limited to 20 percent of the total Grant Funds minus subcontractor and equipment costs. Any amount over 20 percent will not be funded but may be used as cost share. If Grantee seeks to recover indirect or administrative costs, this item should be included as a line item in the Budget. Any cost that is billed as a direct cost may not be included in indirect cost rates. Indirect costs include, but are not limited to, the following: workers compensation insurance, utilities, office space rental, phone, and copying which is directly related to completion of the Project. Costs for subcontractors and purchase of equipment cannot be included in the calculation of indirect costs in the Budget. It is the responsibility of the Grantee to keep documentation for all indirect costs claimed in Exhibit B. For all indirect costs claimed, Grantee must keep backup documents in audit-ready files (these documents are not provided to WCB).

6. GRANTEE'S COVENANTS

In consideration of this Agreement, Grantee hereby covenants and agrees as follows:

- 6.1. Grantee will complete or cause to be completed all Project activities in accordance with Grantee's proposed design and specifications submitted to Grantor, a copy of which is attached as Exhibit E - WORK PLAN and incorporated herein by this reference, on or before June 30, 2022 (Projected Completion Date). The Project will be considered complete when all Project activities have been completed and Grantor has approved (a) the completion of the Project, (b) the final report required by Section 6.4, and (c) the final request for disbursement.
- 6.2. Grantee is responsible for obtaining all necessary permits and approvals for the Project (including its construction, management, monitoring, operation, use and maintenance), and complying with all federal, state and

local statutes, laws, regulations, ordinances, orders and other governmental and quasi-governmental requirements that apply to the Project (including its construction, management, monitoring, operation, use and maintenance).

- 6.3 Grantee shall recognize the cooperative nature of the Project and shall provide credit to the Grantor on signs, demonstrations, promotional materials, advertisements, publications and exhibits prepared or approved by Grantee referencing the Project. Any sign installed on the Property referencing the Project shall be subject to the mutual agreement of Grantor and Grantee regarding text, design and location and shall display the logo of Grantor. Grantee is encouraged to display the California Climate Investments logo on equipment and signage, as applicable, to acknowledge the funding source.
- 6.4 Not later than 30 days following the completion of all Project activities Grantee will submit either five hard copies or one hard copy and one digital copy of a final report of accomplishments, including pre- and post-Project photographs and a final design or site plan of the Project, to Grantor.
- 6.5 Grantee shall ensure that the Property restored with funds provided by Grantor is operated, used and maintained for 25 years after the Grantor's Notice to Proceed (Project Life) consistent with the Purposes of Grant and in accordance with the long-term management plan for the Project attached as Exhibit F – MANAGEMENT PLAN.
- 6.6 The Grantee shall permit Grantor, the California Department of Fish and Wildlife, and their respective members, officers, employees, agents and representatives, to access the Property at least once every twelve months from the date of Grantor's Notice to Proceed through the end of the Project Life for purposes of inspections and monitoring. Such access shall be at times reasonably acceptable to the Property owners and the requester following written or verbal request to the Grantee.

7. BREACH AND REMEDIES

- 7.1 In the event of a breach of Grantee's obligations under this Agreement, Grantor shall give notice to Grantee describing the breach. If Grantee does not cure the breach described in the Grantor's notice within 90 days after the date of Grantor's notice (or, if the breach cannot reasonably be cured within 90 days, Grantee does not commence the cure within the 90-day period and diligently pursue it to completion), then Grantee shall be in default of this Agreement.

- 7.2 In the event of a default by Grantee *before* the Project is complete then, in addition to any and all other remedies available at law or in equity, Grantor may seek specific performance of this Agreement. Grantee agrees that specific performance is an appropriate remedy because the benefits to Grantor from Grantee's completion of the Project in accordance with this Agreement, as described in Section 2 (Purposes of Grant), are unique and damages would not adequately compensate Grantor for the loss of such benefits.
- 7.3 In the event of a default by Grantee, in addition to any and all other remedies available at law or in equity, Grantor may withhold Grant Funds from Grantee or may require reimbursement of Grant Funds that were disbursed in error due to a breach of the Grant terms, including incorrect billing of indirect costs as identified in Section 5.2.
- 7.4 In the event of a default by Grantee, in addition to any and all other remedies available under this Agreement, at law or in equity, Grantor may require Grantee to reimburse the Grant Funds to Grantor in an amount determined by application of the following Reimbursement Formula:

"Reimbursement Formula"

Formula: Dollar amount of Grant Funds disbursed to Grantee divided by Project Life, times the number of years remaining in the Project Life.

Example: Grantor disburses \$50,000.00 to Grantee for the restoration and enhancement of wetland and riparian habitat, and the Project Life is 25 years. With 10.5 years remaining on the Project Life, the Grantee is in default under the Agreement. The reimbursement amount would be \$21,000, calculated as follows:

$$(\$50,000.00 \div 25 \text{ years}) \times 10.5 \text{ years} = \$21,000$$

Reimbursement shall be due from Grantee immediately upon written demand by Grantor. Interest shall accrue at the highest rate allowed by law from the time that the reimbursement becomes due until it is actually received by Grantor.

- 7.5 Any costs incurred by Grantor, where Grantor is the prevailing party in enforcing the terms of this Agreement, including but not limited to costs of suit, attorneys' and experts' fees, at trial and on appeal, and costs of enforcing any judgment, shall be borne by Grantee.

- 7.6 Waiver of any breach or default by Grantee shall not be deemed to be a waiver of any subsequent breach or default, nor shall it constitute a modification of this Agreement.

8. ADDITIONAL TERMS AND CONDITIONS

8.1 Grantee Responsible for Project

While the Grantor undertakes to assist the Grantee with the Project by providing the Grant Funds pursuant to this Agreement, the Project itself remains the sole responsibility of the Grantee. Grantor undertakes no responsibilities to the Grantee or any third party, other than as expressly set out in this Agreement. The responsibility for implementing the Project is solely that of the Grantee.

8.2 Contracts

All agreements between Grantee and any third party related to the Project must be in writing and contain language that establishes the right of the auditors of the State of California to examine the records of the third party relative to the goods, services, equipment, materials, supplies or other assistance provided to Grantee for the Project. Grantee shall provide a complete copy of each agreement over \$10,000.00 to Grantor prior to commencing work.

8.3 Indemnification

To the fullest extent permitted by law, Grantee shall indemnify, protect, and hold harmless the Wildlife Conservation Board and the State of California, and their respective members, officers, agents, employees and representatives, from and against any and all claims, demands, damages, losses, costs (including attorneys' fees), expenses, and liability of any nature (Claims) arising out of or incident to the Project, Grantee's entry upon and use of the Property, and Grantee's performance of, or failure to observe or perform, any of its obligations under this Agreement. The obligations of Grantee under this Section 8.3 include, without limitation, Claims resulting from the generation, use, storage, disposal, release or threatened release of any hazardous or toxic substance, material or waste; petroleum or petroleum products and other substances that present a threat to human health or the environment.

8.4 Amendment; Severability

This Agreement may be modified only by a written amendment signed by Grantor and Grantee. No oral or written understanding or agreement not incorporated in this document shall be binding on the parties.

If any provision of this Agreement or the application thereof to any person or circumstance is held to be invalid or unenforceable, that shall not affect any other provision of this Agreement or applications of the Agreement that can be given effect without the invalid provision or application. To this end the provisions of this Agreement are severable.

8.5 Independent Capacity of Grantee; Withholding and Payments

Grantee, its members, officers, directors, employees, agents and representatives, is each acting in an independent capacity in entering into and carrying out this Agreement, and not as a partner, member, officer, agent, employee or representative of Grantor. Grantee is responsible for withholding and paying employment taxes, insurance and deductions of any kind required by federal, state or local laws.

8.6 No Assignment or Transfer

This Agreement is not assignable or transferable by Grantee, either in whole or in part, without the prior written consent of Grantor which Grantor may grant or withhold in Grantor's discretion.

8.7 Accounting/Records/Audits

Grantee shall maintain complete and accurate records of its actual Project costs, in accordance with generally accepted accounting principles and practices, and shall retain said records for at least three years after final disbursement by Grantor. During such time, Grantee shall make said records available (or cause them to be made available) to the State of California for inspection and audit purposes during normal business hours. Expenditures not documented, and expenditures not allowed under this Agreement or otherwise authorized in writing by Grantor shall be borne by Grantee. The audit shall be confined to those matters connected with this Agreement, including but not limited to administration and overhead costs.

8.8 Use of Grant Funds to Secure Additional Funding

Grantee agrees that the funding provided under this Agreement shall not be used as matching funds for other grants, or to secure loans or other monetary awards without written approval from the Executive Director, Wildlife Conservation Board. Such approval shall not be unreasonably withheld as long as the purposes for which the Grant Funds were awarded are maintained.

8.9 Termination or Suspension of Agreement

At any time before Grantee has broken ground on the Project Grantor may terminate this Agreement for any reason by providing Grantee not less than 30 days written notice of termination. In addition, Grantor may suspend this Agreement at any time upon written notice to Grantee. In either case, Grantee shall immediately stop work under this Agreement and take all reasonable measures to prevent further costs to Grantor.

Grantor is responsible for reasonable and non-refundable obligations or expenses incurred by the Grantee under this Agreement prior to the date of the notice to terminate or suspend, but only up to the undisbursed balance of funding authorized in this Agreement. Any notice suspending work under this Agreement shall remain in effect until Grantor authorizes work to resume by giving further written notice to Grantee.

8.10 Resolution of Disputes

The State Project Representative is identified on Page i of this Agreement. The State Project Representative has initial jurisdiction over each controversy arising under or in connection with the interpretation or performance of this Agreement or disbursement of Grant Funds. The Grantee will diligently pursue with the State Project Representative a mutually agreeable settlement of any such controversy.

If the controversy cannot be resolved between Grantee and the State Project Representative, the Grantee must direct the grievance together with any evidence, in writing, to the Executive Director of the Wildlife Conservation Board. The grievance must state the issues in the dispute, the legal authority or other basis for the Grantee's position and the relief sought.

The Executive Director or designee shall meet with a representative of the Grantee to review the issues. A written decision signed by the Executive Director or designee shall be returned to the Grantee within twenty (20) working days of the conclusion of this meeting.

8.11 Drug-Free Workplace Certification

By signing this Agreement, Grantee hereby certifies under penalty of perjury under the laws of the State of California that Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- 8.11.1 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, as required by Government Code Section 8355(a).
- 8.11.2 Establish a Drug-Free Awareness Program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
 - 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

- d) programs; and, penalties that may be imposed upon employees for drug abuse violations.

8.11.3 Provide, as required by Government Code Section 8355(a)(3), that every employee who works on the proposed contract:

- a) will receive a copy of the company's drug-free policy statement; and,
- b) will agree to abide by the terms of the company's statement as a condition of employment on the contract.

Failure to comply with these requirements may result in suspension of disbursements under this Agreement or termination of this Agreement or both and Grantee may be ineligible for award of any future state contracts if the Grantor determines that any of the following has occurred: (1) Grantee has made false certification, or (2) Grantee violates the certification by failing to carry out the requirements as noted above.

8.12 Union Organizing

By signing this Agreement the Grantee hereby acknowledges the applicability to this Agreement of Government Code Sections 16645 through 16649, and certifies that:

8.12.1 No state funds disbursed under this Agreement will be used to assist, promote or deter union organizing;

8.12.2 Grantee shall account for state funds disbursed for a specific expenditure under this Agreement, to show those funds were allocated to that expenditure;

8.12.3 Grantee shall, where state funds are not designated as described in 8.12.2 above, allocate, on a pro-rata basis, all disbursements that support the grant program; and

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

8.13 Labor Code Requirements; Prevailing Wage

State grants may be subject to California Labor Code requirements, which include prevailing wage provisions. 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.

8.14 Disposition of Equipment

Title or ownership of equipment with a unit cost of \$5,000 or more may be retained by Grantee or Grantor upon end of the grant cycle; final disposition will be coordinated by WCB's Grant Manager.

8.15 Informational Products

All informational products (e.g. data, studies, findings, management plans, manuals, photos etc.) relating to California's natural environment and produced with the use of public funds shall be cataloged in the California Geoportal (<http://portal.gis.ca.gov/geoportal/catalog/main/home.page>), maintained by the California Department of Technology.

8.16 Non-Discrimination

During the performance of this Agreement, Grantee shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability (including HIV and AIDS), mental disability, medical condition, marital status, age (over 40), sex, sexual orientation, or use of family-care leave, medical-care leave, or pregnancy-disability leave. Grantee shall take affirmative action to ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination and harassment. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Grantee shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 (a-f) *et seq.*), and applicable regulations (California Code of Regulations, Title 2, Section 7285 *et seq.*). The regulations of the Fair Employment and Housing Commission regarding Contractor Nondiscrimination and Compliance (Chapter 5 of Division 4 of Title 2 of the California Code of Regulations) are incorporated by reference into this Agreement. Grantee shall give written notice of its obligations under this non-discrimination clause to labor organizations with which Grantee has a collective bargaining or other agreement, and shall post in conspicuous places available to employees and applicants for employment, notice setting forth the provisions of this section. Grantee shall also include the nondiscrimination and compliance provisions of this Agreement in all contracts related to the Project.

9. NOTICE OF AGREEMENT

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, and assigns and shall continue as a servitude running with the Property for the Project Life.

Grantee agrees to sign, have acknowledged by a Notary Public and deliver to Grantor for recording a separate document, in a form substantially as shown in

Exhibit G - NOTICE OF UNRECORDED GRANT AGREEMENT, to provide constructive notice of this Agreement.

10. AUTHORIZATION

The signature of the Executive Director certifies that at the meeting of the Wildlife Conservation Board held on November 21, 2019, the Board authorized the award of a grant of up to \$1,250,000.00 to Grantee for the Project.

11. EFFECTIVENESS OF AGREEMENT

This Agreement shall be deemed executed and effective as of the last date it is signed by authorized representative(s) of each of Grantor and Grantee. Each party shall sign two original counterparts of this Agreement. Each fully executed counterpart shall be deemed an original. Grantee shall receive one fully executed original and Grantor shall receive one fully executed original.

12. EXHIBITS

Each of the Exhibits referenced in this Agreement is incorporated by reference as though set forth in full herein. The following Exhibits are attached to this Agreement:

Exhibit A – Location Map

Exhibit B – Budget

Exhibit C – Disbursement Request Template

Exhibit D – Final Cost Share Template

Exhibit E – Work Plan

Exhibit F – Management Plan

Exhibit G – Form of Notice of Unrecorded Grant Agreement

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement.

GRANTOR
STATE OF CALIFORNIA
WILDLIFE CONSERVATION BOARD

By: _____ Date: _____
John P. Donnelly
Executive Director

GRANTEE
Contra Costa County Flood Control and Water Conservation District

By: _____ Date: _____
Brian M. Balbas
Chief Engineer

EXHIBIT A – LOCATION MAP



EXHIBIT B BUDGET

Project Task	Total Cost	WCB	Non-WCB funds*
1. Site Preparation	\$1,467,940		\$1,467,940
2. Earthwork	\$4,113,390	\$1,250,000	\$5,363,390
3. Access Improvements	\$328,520		\$328,520
4. Utility Relocations	\$1,222,325		\$1,222,325
5. Revegetation	\$1,455,429		\$1,455,429
TOTAL	\$8,587,604	\$1,250,000	\$9,837,604

*Non-WCB funding sources include contributions from the grantee, and from the US EPA San Francisco Bay Water Quality Improvement Fund

DISBURSEMENT REQUEST TEMPLATE

Contra Costa Flood Control and Water Conservation District, 255 Glacier Drive, Martinez, CA 94553

Invoice Date: _____

Contact: Paul Detjens, CCFCWCD: (925) 313-2394

Invoice No: _____

Project Name: Lower Walnut Creek Restoration Project

Agreement Number: WC-1928KM

WCB Project ID Number: 2019107

Term of Project: December 31, 2019 - June 30, 2022

Invoice Period Covered: Beginning and End Date

Amendments: describe if any, along with date

WCB Project Manager: Kurt Malchow

PROJECT TASK	TOTAL COST	MATCHING FUNDS, CUMULATIVE**	WCB ALLOCATION	WCB PRIOR INVOICED AMOUNT	CURRENT WCB INVOICE	Remaining Balance of WCB allocation available for expenditure on this task
Describe in a separate row each project task in the Budget approved by the WCB - Must be identical to those shown in the approved budget unless amended	Show the total cost for each task. Must be identical to those shown in the approved budget unless amended	Enter the total dollars of all non-WCB invoices. This column should increase progressively with successive invoices.	Show the total WCB allocated costs for each task. Must be identical to those shown in the approved budget unless amended	Sum all invoices already submitted to the WCB for payment on this task (includes amounts retained by WCB)	Amount of current invoice applied to this task	Remaining Balance of WCB allocation available for expenditure on this task
Task 1: Site Preparation	\$ 1,467,940.00		\$ -			
Task 2: Earthwork	\$ 4,113,390.00		\$ 1,250,000.00			
Task 3: Access Improvements	\$ 328,520.00		\$ -			
Task 4: Utility Relocations	\$ 1,222,325.00		\$ -			
Task 5: Revegetation	\$ 1,455,429.00		\$ -			
TOTAL	\$ 8,587,604.00	\$ -	\$ 1,250,000.00	\$ -	\$ -	\$ -

Total Current Invoice:

\$ -

Less Retention*:

\$ -

TOTAL PAYMENT DUE:

\$ -

Approved for Payment

CURRENT RETENTION

\$ -

PREVIOUS RETENTION:

\$ -

TOTAL RETENTION WITHHELD TO DATE:

\$ -

By: _____

Printed Name _____

_____ Date

*Retention: Unless otherwise approved in advance by WCB, 10% of total current invoice will be retained by WCB until the end of the project.

Each Invoice/Disbursement request should be accompanied by the following:

1. A detailed statement of services for the period covered by the invoice (photos may also be included if appropriate).
2. Supporting or back-up documentation for all charges on the invoice, including receipts for all materials and supplies, all Grantee staff time shown by number of hours worked and hourly rate, and all sub-contractor services.
3. Clearly reconcile all supporting documents and identify them with the charges reflected in the invoice. If the attached supporting document includes a charge that will be reimbursed in part by the WCB and another funding source, clearly indicate the portion being paid by the WCB, and reconcile this amount with the invoice.
4. **Column: Matching Funds, Cumulative: this column should include the total dollars for all match funds and in-kind services provided per invoice period, and should accumulate progressing forward with each invoice. Please refer to EXHIBIT D- FINAL MATCH TEMPLATE, and contact WCB Project Manager for additional questions.

FINAL MATCH ACCOUNTING FORM

Contra Costa Flood Control and Water Conservation District, 255 Glacier Drive, Martinez, CA 94553

Contact: Paul Detjens, CCFCWCD: (925) 313-2394
Project Name: Lower Walnut Creek Restoration Project
Agreement Number: WC-1928KM
Term of Project: December 31, 2019 - June 30, 2022
Amendments: describe if any, along with date
WCB Project Manager: Kurt Malchow

PROJECT TASK	TOTAL COST	WCB				TOTAL MATCH**	
		ALLOCATION	MATCH SOURCE	MATCH SOURCE	MATCH SOURCE		
Column contents should be identical to Grant, Exhibit B	Column will be identical to Grant, Exhibit B	Column will be identical to Grant, Exhibit B	Match Source #1, Name	Match Source #2, Name	Match Source #3, Name	Insert additional columns as needed.	Total of all non-WCB charges to this task. This includes invoices or charges for the task item, attributed to another funding source/ partner.
Task 1: Site Preparation	\$ 1,467,940.00		\$ -				
Task 2: Earthwork	\$ 4,113,390.00		\$ 1,250,000.00				
Task 3: Access Improvements	\$ 328,520.00		\$ -				
Task 4: Utility Relocations	\$ 1,222,325.00		\$ -				
Task 5: Revegetation	\$ 1,455,429.00		\$ -				
TOTAL	\$ 8,587,604.00	\$ -	\$ 1,250,000.00	\$ -	\$ -	\$ -	\$ -

NOTES

- 1 ** This column will be the same as WCB Disbursement Template, "Matching Funds, Cumulative", and should be identical to match presented in Grant Exhibit B.
- 2 Matching funds backup documents to include: invoices, timesheets, or time estimates with justification. Grantee will keep backup documents for audit-ready files (backup documents will not be provided to WCB).
- 3 This EXHIBIT D - FINAL MATCH ACCOUNTING FORM should be included with the final invoice when work is completed, in advance of retention release invoice.
- 4 If Project has numerous partners with small match items, these may be consolidated into one column. Please discuss with WCB Project Manager

Exhibit E - WORK PLAN

The project goal is to restore and enhance wetlands and associated habitats in Lower Walnut Creek and to provide sustainable flood management, while allowing opportunities for public access and recreation. Project objectives include improving ecological function and habitat quantity, quality, and connectivity, maintaining appropriate levels of flood protection, and allowing for future public access. Initial site analyses and construction design has been arranged for these project benefits to persist under future projected environmental changes such as sea level rise and sedimentation.

The project is being implemented in four phases; Phase 1– Planning and Stakeholder Outreach (completed 2017), Phase 2 – Design, Permitting, and Environmental Compliance (in progress), Phase 3 – Implementation of North and South Reaches (2019-2022), and Phase 4 – Monitoring and Adaptive Management of North and South Reaches (2022 - 2047). The Middle Reach will be implemented in a subsequent phase, with the timing to be determined. The grant funding under this agreement is to support Phase 3 of the project and will be directed to earthwork construction for the North and South Reaches.

Construction - North Reach

The District's selected contractor would implement the construction of the North Reach portion of the project. Construction activities include:

- Mobilization, site preparation, permit compliance
- Excavation and grading to create new tidal channels, tidal marsh, adjacent terrestrial lowlands, and upland habitats in all reaches
- Excavation to lower the existing berms
- Protection of existing buried utilities running in parallel to Waterfront Road and in parallel to the existing access road
- Placement of excess excavation from the South and Middle reaches in the North Reach
- Revegetation of terrestrial lowlands and upland areas

Long term vegetation maintenance and monitoring will take place outside the scope of this grant and work plan.

Equipment anticipated for construction includes excavators, dozers, end dumps, track pulled scrapers, conventional big wheel scrapers, water trucks, rollers, and sheepsfoot compactor. Depending upon the contractor, channel excavation will be performed with a combination of low ground pressure equipment including excavators, dozers, end dumps, and track pulled scrapers. Fine grading of transitional and upland slopes will be performed with a grader.

Construction – South Reach

The District's selected contractor would implement the construction of the South Reach portion of the project. Construction activities include:

- Mobilization, site preparation, permit compliance
- Earthwork to construct new setback levees and lower and breach existing levees.
- Excavation and grading to create new tidal channels, tidal marsh, adjacent terrestrial lowlands, and upland habitats
- Installation of levee maintenance access roads
- Relocation of utilities within the new levee footprint
- Revegetation of upland and transition habitats

Equipment anticipated for construction includes excavators, dozers, end dumps, track pulled scrapers, conventional big wheel scrapers, water trucks, rollers, and sheepsfoot compactor. Depending upon the contractor, channel excavation will be performed with a combination of low ground pressure equipment including excavators, dozers, end dumps, and track pulled scrapers. Fine grading of transitional and upland slopes will be performed with a grader.

Exhibit F – Management Plan

This Management Plan outlines the key management strategies to ensure sustainability of benefits funded by this grant for the Lower Walnut Creek Restoration Project (Project) over the Project Life of 25 years.

The project goal is to restore and enhance wetlands and associated habitats in Lower Walnut Creek and to provide sustainable flood management, while allowing opportunities for public access and recreation. Project objectives include improving ecological function and habitat quantity, quality, and connectivity, maintaining appropriate levels of flood protection, and allowing for future public access. Initial site analyses and construction design have been arranged for these project benefits to persist under future projected environmental changes such as sea level rise and sedimentation.

Responsible Parties

The District, in conjunction with its partner, will be responsible for ongoing maintenance, management and monitoring of the Project, including gathering and analyzing data and issuing all required monitoring reports. The District's partner in the North Reach (Pacheco Marsh) is the John Muir Land Trust (JMLT).

JMLT's partnership applies only to the North Reach of the project. For the South Reach, ongoing maintenance, management and monitoring will be the sole responsibility of the District.

Funding Mechanisms

The District will use ad valorem tax revenue collected from property owners in the watershed to satisfy long term District responsibilities related to the Project. JMLT will use other JMLT funds, grants, and donations from corporations, foundations and individuals to satisfy JMLT long term responsibilities related to the Project.

Management and Maintenance Activities.

The Project has been specifically designed to minimize the need for active operations and ongoing maintenance. Ongoing management activities are expected to include:

1. Vegetation Maintenance
2. Trash Collection
3. Site Security
4. Repair of vandalism
5. Inspection and repair of levees, storm drains, embankments and channels

These are described in more detail in the following sections.

Note that the public access trails and facilities to be installed in future phases of the Project are beyond the scope of this grant, and thus are not discussed in this plan.

Vegetation Management

Vegetation management will be focused on restricting the spread of target invasive exotic species and may include mechanical treatment (mowing, manual pull, mechanical scrape) and/or herbicide application, as determined by a qualified biologist/botanist in response to particular site conditions. Actions to control non-native invasive plant species are outlined below.

Mediterranean stinkwort and perennial pepperweed are species of particular concern and thus top priority for control. Populations targeted for management would be selected based upon population size and location relative to restoration design elements, and on feasibility of elimination/control within the available timeframe.

- Mechanically treat (hard mow, manually pull, mechanically scrape) selected stinkwort colonies in late summer/early fall, during the earliest flowering stages, prior to seed set; treat regrowth and new seedlings with herbicides approved by federal (e.g., U.S. Environmental Protection Agency) and state (e.g., California Environmental Protection Agency) regulatory and permitting agencies for wetland applications.
- Treat selected pepperweed and other invasive plant species with mechanical removal and/or glyphosate herbicide formulations approved for wetland applications. Treat during late preflowering bolting (maximum shoot elongation) or up to earliest flowering stages (usually late March to early May, depending on temperatures); retreat new growth with herbicides in summer prior to seed set.

More information about weed management can be found in the Lower Walnut Creek Project Monitoring and Adaptive Management plan (MAMP), including a list of target weeds for management, summary information on management methods, and a preliminary schedule of weed management activities for control of potential invasive plant species. Generally, high priority weeds will be monitored twice a year, or as needed.

Trash Collection, Site Security and Repair of Vandalism

The District and JMLT both have significant land holdings and have extensive experience with long term site management, including trash collection, site security and repair of vandalism. Before public access amenities are installed, no official public access will be permitted, and management of the restored Project area will be similar to existing management of the 'pre-project' area. The area will be inspected periodically, gates will be repaired as needed, and maintenance crews will remove material that may have been dumped onto the property. After official public access is allowed, site management will become

more active with servicing of trash receptacles and maintenance of gates and fences to facilitate proper access and discourage trespass.

Inspection and repair of levees, storm drains, embankments and channels

During the 10 year regulatory monitoring period, the built infrastructure will be closely monitored with results reported to the various regulatory agencies having jurisdiction over the Project. Once the monitoring period is complete, the Project site will enter a phase of long term stewardship. As with other long term holdings, Project infrastructure will typically be inspected annually, or immediately following significant storm events. Any identified remedial work will be scheduled depending on the severity of any damage and the reduction in level of service.

How the Project Design Ensures Sustainability of the Project Objectives

The overall project design approach is to restore natural hydrology, sedimentation, and vegetative processes that naturally sustain tidal wetlands and associated habitats over time, minimizing the need for ongoing management. In this way, the design maximizes sustainability.

The items of work funded by this Wildlife Conservation Board grant (see work plan in Exhibit E) are primarily excavation and grading which are considered permanent project features and are unlikely to be removed or damaged over time, ensuring their continued effectiveness.

The District has owned the South Reach since 1965 and will continue to hold those areas in fee title. The District has owned the creek portion of the North Reach since 1965 and will continue to hold those areas in fee title. The District and JMLT have jointly owned and managed the Pacheco Marsh portion of the North Reach since its purchase for the project in 2003. Currently, the District holds fee title to Pacheco Marsh, but intends to transfer fee to JMLT once Project implementation is complete.

Recording requested by,
and when recorded mail to:

STATE OF CALIFORNIA
Department of Fish and Wildlife
Wildlife Conservation Board
P.O. Box 944209
Sacramento, California 94244-2090

_____ Space above this line for Recorder's Use _____

Project: **NAME**

County:

Project ID:

NOTICE OF UNRECORDED GRANT AGREEMENT

A Grant Agreement titled for reference purposes as **NAME** (Agreement No. **XXXX**), was entered into by and between the State of California, by and through the Wildlife Conservation Board (Board), **NAME** (Grantee) and **NAME** (Landowner). As this recording is on the behalf of the State, please note the recording of these documents is not subject to payment of fees pursuant to Section 27383 of the Government Code.

The Board, Grantee and Landowner entered into said Grant Agreement (No. WC-XXXX), pursuant to which the Board granted funds to Grantee to perform certain activities on the certain real property in XXXX County owned by the Landowner, to **BRIEF PROJECT DESCRIPTION, E.G., RESTORE WETLAND HABITAT**. The Grant Agreement term runs from **DATE**, through **DATE**, for capital improvements and restoration activities and from **DATE**, through **DATE (typically 25 years)**, for management and monitoring practices. The terms, conditions and restrictions of the Grant Agreement are binding upon and inure to the benefit of the Landowner, and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running for the project life span of the project on the subject lands as described in Exhibit "A" attached hereto and incorporated herein by this reference. For additional terms and conditions of the Grant, reference should be made to the Grant Agreement which is on file with the Wildlife Conservation Board, 1700 9th Street, 4th Floor, Sacramento, California 95811.

SIGNATURE OF STATE OF CALIFORNIA, WILDLIFE CONSERVATION BOARD

John P. Donnelly, Executive Director

DATE _____

SIGNATURE OF GRANTEE (**NAME**)

NAME, TITLE

DATE _____

SIGNATURE OF LANDOWNER (**NAME**)

(This is an EXAMPLE NOUGA – Do Not sign this copy)

DATE _____

NAME, TITLE

EXHIBIT A

LEGAL DESCRIPTION

All that certain real property situate in the County of XXXX, State of California, described as follows: