



**PROPOSITION 1 WATERSHED RESTORATION GRANT PROGRAM
LOWER WALNUT CREEK RESTORATION PROJECT
GRANT AGREEMENT NUMBER – Q2096013**

GRANTOR: State of California, acting by and through the
California Department of Fish and Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090

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

SECTION 1 – LEGAL BASIS OF AWARD

The California Department of Fish and Wildlife (CDFW or Grantor) developed the Delta Water Quality and Ecosystem Restoration Grant Program(s) 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 Section 79737, authorizing the Legislature to appropriate funds to CDFW to fund multi-benefit ecosystem and watershed restoration and protection projects and Section 80132(g) authorizing the Legislature to appropriate funds to CDFW to fund projects to improve conditions for fish and wildlife in streams, rivers, wildlife refuges, wetland habitat areas, and estuaries.

Pursuant to Fish and Game Code Section 1501.5(b), Grantor is authorized to enter into this grant agreement (Agreement) and to make an award to Contra Costa County Flood Control and Water Conservation District (Grantee) for the purposes set forth herein. Grantee accepts the grant on the terms and conditions of this Agreement. Accordingly, Grantor and Grantee (Parties) hereby agree as follows:

SECTION 2 – GRANT AWARD

2.01 Grant: In accordance with the terms and conditions of this Agreement, Grantor shall provide Grantee with a maximum of \$1,350,000 (Grant Funds) to financially support and assist Grantee's implementation of the Lower Walnut Creek Restoration Project (Project).

2.02 Term: The term of this Agreement is July 1, 2020, or upon Grantor approval, whichever is later, through March 15, 2024 (Agreement Term).

SECTION 3 – ELIGIBLE USES OF GRANT

Only Grantee expenditures that are necessary to implement the Project, comply with applicable federal and State of California law, and made in accordance with this

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Agreement are eligible for reimbursement from the Grant Funds.

SECTION 4 – GRANTEE’S REPRESENTATIONS AND WARRANTIES

Grantee represents and warrants to Grantor as follows:

- 4.01 Existence and Power:** Grantee is a public entity, 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.
- 4.02 Binding Obligation:** This Agreement has been duly authorized, executed, and delivered on behalf of Grantee and constitutes the legal, valid, and binding obligation of Grantee, enforceable in accordance with the Agreement’s terms.

SECTION 5 – GENERAL TERMS

- 5.01 Purpose:** This Agreement is entered into by the Parties for the purpose of providing financial support to Grantee to complete the Project, specifically the activities identified within Section 6 - Project Statement.
- 5.02 Project:** Grantee shall complete the Project as set forth in Section 6 - Project Statement.
- 5.03 General Grant Provisions:** Public Entities General Grant Provisions (Exhibit 1.a), is attached hereto and made a part of this Agreement.
- 5.04 Amendments:** This Agreement may only be amended in accordance with Section 2 of Exhibit 1.a. Grantee shall submit any request to amend any term of this Agreement in writing to the CDFW Grant Manager no later than 120 days prior to the end of the Agreement Term. Grantee must include an explanation of and justification for any such request.
- 5.05 Acknowledgement of Credit:** Grantee shall include signage, to the extent practicable, informing the public that the Project received funds through the California Department of Fish and Wildlife from the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1, CWC § 79707). Further, Grantee shall include appropriate acknowledgement of credit to the Delta Water Quality and Ecosystem Restoration Grant Program and its implementing agency, the California Department of Fish and Wildlife, for Grantor’s financial support when using any data and/or information developed under this Agreement (e.g., in posters, reports, publications, presentations).
- 5.06 Regulatory Compliance:** Grantee’s implementation of the Project must comply with all applicable federal, state, and local laws, regulations, codes, ordinances, or other rules. Any Project costs incurred by Grantee when Grantee is out of

compliance with such local laws, regulations, codes, ordinances, or other rules are not eligible for reimbursement under this Agreement.

Grantee's implementation of the Project must comply with the California Labor Code. Projects funded in whole or in part with CDFW grant funds may be public works projects under the Labor Code. (See section 1720 et seq.) Labor Code compliance may require the payment of prevailing wage. Grantee is responsible for Labor Code compliance, and Grantor cannot provide advice about Labor Code compliance.

Grantee's implementation of the Project must comply with the California Business and Professions Code. Grantee shall be responsible for obtaining the services of an appropriately licensed professional if required by the Business and Professions Code, including but not limited to Section 6700 et seq. (Professional Engineers Act) and Section 7800 et seq. (Geologists and Geophysicists Act). Grantor cannot provide advice about Business and Professions Code compliance.

- 5.07 Notice to Proceed and Landowner Access:** Grantee must not proceed with Tasks 4 and 5 (as defined in Section 6.03.4 of this Agreement) until it has received a Notice to Proceed from the CDFW Grant Manager. The CDFW Grant Manager will not issue a Notice to Proceed until Grantee has secured all required permits including a CDFW Streambed Alteration Agreement (1600-2019-0275-R3) and a CDFW Fully Protected Species MOU/CESA 2081(a) MOU , provided copies of such permits to the CDFW Grant Manager, and secured Project Site Access (as defined in Section 6.03.2 of this Agreement) that the CDFW Grant Manager determines is adequate.

SECTION 6 – PROJECT STATEMENT

- 6.01 Introduction:** The Lower Walnut Creek Restoration Project will enhance and restore tidal wetlands and transitional habitats for the benefit of native fish and wildlife species, consistent with the solicitation priorities, while also providing for sustainable flood management, public access and recreation. The Project, located in close proximity to the Delta and Suisun Marsh, is designed to benefit many fish and wildlife species such as salmonids, delta and longfin smelt, salt marsh harvest mouse, ridgeways rail, and California black rail consistent with the Delta plan.

The project will enhance and restore habitats that have suffered large historic losses. With the loss of wetlands, there has been habitat fragmentation which limits genetic diversity between isolated populations, further threatening their viability. The project improves habitat connectivity by approximately doubling the width of marsh corridor along the Walnut Creek channel and helping fill a nearly mile-wide gap between two large historic tidal marshes on either side of the Project site along the shoreline of Suisun Bay.

In 2015, the District embarked on a community-based planning process for the Project that involves six phases. These phases include:

- Phase 1 - Planning and Stakeholder Outreach;
- Phase 2 – Environmental Compliance, Permitting, Design, and Native Propagation;
- Phase 3 – Implementation of the North and South Reach Restoration;
- Phase 4 – Implementation of North Reach Public Access;
- Phase 5 – Monitoring and Adaptive Management of North and, South Reaches; and
- Phase 6 – Middle Reach Restoration permitting, final design, implementation and monitoring.

This Project is part of Phase 3, the implementation of the north and south restoration, referenced above

6.02 Objectives: Specific objectives of this Project are to:

1. Restore wetlands to improve ecological function and habitat quantity, quality, and connectivity (including upland transition zones) in the Lower Walnut Creek area for native plant and animal species including special status species. Reduction of invasive species will be an ongoing effort that will be defined in the monitoring and adaptive management plan under Task 3.
2. Maintain appropriate levels of flood protection along Lower Walnut and Pacheco creeks as warranted by the land use.
3. Allow for future public access, education, and recreational opportunities.
4. Create sustainable benefits that consider future environmental changes such as sea level rise and sedimentation.

6.03 Project Description:

6.03.1 Location: Grantee will implement the Project on approximately 200 acres of publicly-owned land in Contra Costa County, located approximately 3 miles east of the City of Martinez, along the west bank of Walnut Creek. The location of the North Reach and South Reach of the Project are described in Exhibit 2, and shown in Exhibit 3, Location Map. The coordinates of the two reaches of the project are:

North Reach: Latitude: 38.035672 Longitude: -122.091482
South Reach: Latitude: 38.018921 Longitude: -122.07159

Grantee owns the Property in fee, holds an easement, or has a long term lease with California State Lands Commission. In the South Reach, Grantee is securing an easement from the adjacent landowner, Conco. Acceptance of the easement is pending.

6.03.2 Project Site Access Grantee shall cause the Project landowner(s) to give Grantor, and its employees and agents written permission to access the Project Site at least once every 12 months from the date of Grantor's Notice to Proceed until 25 years after the end of the Agreement Term for purposes of inspections and monitoring (Project Site Access). Such access shall be reasonably acceptable to the landowner(s) and the requester following written or verbal request to Grantee.

6.03.3 Materials and Equipment: Property acquisitions and equipment purchases must comply with Section 21 of Exhibit 1.a. Materials and equipment are included in subcontractor costs or will be provided as cost share by Grantee.

6.03.4 Project Implementation: Consistent with Grantee's proposal for the Project, Grantee will complete the following tasks in accordance with Section 6.03.5 – Schedule of Due Dates and Deliverables:

Task 1 – Project Management and Administration

Grantee will provide technical and administrative services associated with implementation of the Project, including managing this Agreement, assuring all permits are finalized, securing Project Site Access, administering subcontracts, invoicing and payments, drafting and finalizing progress and final reports, and data management.

Subtask 1.1 – Data Management

Grantee Project Manager will coordinate data management activities. Grantee shall submit a Data Management Plan. The CDFW Grant Manager will provide Grantee the Data Management Plan form upon request.

Grantee and its subcontractors and/or collaborators are responsible for ensuring that Project data are collected using peer-approved methods, undergo a quality control and accuracy assessment process, include metadata that meet CDFW's minimum standards (<https://www.wildlife.ca.gov/Data/BIOS/Metadata>) and include documentation of the methods and quality assessments utilized, and are properly stored and protected until the Project has been completed and data have been delivered as required under this Agreement.

All scientific data collection efforts are required to include metadata files or records indicating at a minimum:

1. Who collected the data;
2. When the data was collected;
3. Where the data was collected;
4. How the data was collected (description of methods and

- protocols);
5. The purposes for which the data was collected;
 6. Definitions of variables, fields, codes, and abbreviations used in the data, including units of measure;
 7. The terms of any landowner access agreement(s), if applicable;
 8. References to any related CDFW permits or regulatory actions;
 9. Peer review or statistical consultation documentation; and
 10. Data licensing and disclaimer language.

All data and associated metadata collected by or created under this Agreement are a required deliverable of this Agreement. All data deliverables should be budgeted for and included in the Project timeline as a part of this Agreement. A condition of final payment on this Agreement shall include the delivery of all related data assets. Geospatial data must be delivered in an industry-standard geospatial data format where applicable and documented with metadata in accordance with the CDFW Minimum Metadata Standards.

Data related to observation, occurrence or distribution of state or federal special status species or California Native Plant Society listed species shall be reported to the California Natural Diversity Database (CNDDDB) using the online field survey form or other digital method.

The following Project information shall be uploaded by Grantee to Project Tracker (<http://ptrack.ecoatlas.org/>) in EcoAtlas (<http://www.ecoatlas.org/>): Project name, Project proponent and contact information, Project boundary (GIS polygon), Proposition 1 funding details, pertinent dates, activity type, and habitat types and amounts.

Subtask 1.2 - Long-Term Maintenance: Grantee shall ensure that the Project and Project Site are properly operated, used, and maintained consistent with the purposes (as stated in Section 6.01 – Introduction) and objectives (as stated in Section 6.02 – Objectives) of the Project for 25 years after the end of the Agreement Term. Grantor will not fund long-term maintenance activities outside of the Agreement Term.

Task 2 – Restoration Design Plans and Permitting

Construction design plans at the 100% design level must be submitted for CDFW engineering staff evaluation. The CDFW engineering staff will be given up to a 30-calendar day review period (or a longer period as may be mutually agreed upon in writing) and Project work must not continue until CDFW engineering staff have accepted the applicable

design plans. Project design review and acceptance by the CDFW engineering staff does not imply CDFW responsibility or liability for the performance of this aspect or any other aspect of the Project. Such liabilities and assurances of performance are the responsibility of Grantee and its engineering subcontractor.

All permits necessary for North and South reach construction are required to be obtained prior to beginning Task 4.

Task 3 - Monitoring and Adaptive Management Plan

Grantee has prepared and submitted a Draft Monitoring and Adaptive Management Plan (MAMP) to CDFW as part of the 1602 permitting process. The Final MAMP will be provided as a deliverable under this task.

Task 4 - Construction with Construction Support

Completion of North and South Reach construction activities with as-constructed plans as the primary deliverable. The Grantee's selected construction subcontractor will implement the construction of the North and South Reach portion of the Project.

Grantee's selected biological monitoring and construction management subcontractors will provide needed support to ensure compliance with the Project construction documents and compliance with regulatory permits. Construction activities will include:

1. Mobilization, site preparation, and permit compliance;
2. Earthwork to lower and breach existing levees and construct new setback levees;
3. Excavation and grading to create new tidal channels, tidal marsh, adjacent terrestrial lowlands, and upland habitats;
4. Installation of levee maintenance access roads;
5. Infrastructure relocation;
6. Revegetation of upland and transition habitats; and
7. Vegetation establishment maintenance.

Grantee also refers to Task 4 as task 8.2 and task 8.3 within Grantee's Lower Walnut Creek Master Task List.

Task 5 - Post construction monitoring and adaptive management)

Data from this task will be incorporated into the quarterly reports (Task 1), draft final, and the final report. Additionally, baseline and post construction monitoring reports will be produced, and uploaded per the Monitoring and Adaptive Management Plan (Task 3) and the Data Management Plan. Grantee's selected biological monitoring

subcontractor will assist Grantee with this task.

6.03.5 Schedule of Due Dates and Deliverables:

<u>Task</u>	<u>Description</u>	<u>Deliverables</u>	<u>Estimated Completion Dates</u>
1	Project Management and Administration	Quarterly Progress Reports	Due within 30 days following each calendar quarter (March, June, September, December) following grant execution.
		Quarterly Invoices	Due within 30 days following each calendar quarter (March, June, September, December) after grant execution.
		Copies of Executed Subcontracts	To be provided with subsequent quarterly report after subcontract executed
		Submit Project Data	With Final Report, by March 15, 2024
		Draft Final Report	February 15, 2024
		Final Report	Due no later than the Agreement Term end date, March 15, 2024
		Project Close-out Summary Report	March 15, 2024
		Final Invoice	Due no later than 30 days after the Agreement Term end date, April 15, 2024.

<u>Task</u>	<u>Description</u>	<u>Deliverables</u>	<u>Estimated Completion Dates</u>
2	Restoration Design Plans and Permitting	Confirmation from CDFW Engineering and CDFW Regional staff that plans and permits are complete and appropriate	July 1, 2021
3	Monitoring and Adaptive Management Plan	Final Monitoring and Adaptive Management Plan	Before start of construction: April 15, 2021.
4	Construction with Construction Support	As constructed plans	December 31, 2021
5	Post Construction Monitoring and Adaptive Management	Annual monitoring reports	December 31, 2022 and December 31, 2023

SECTION 7 – CONTACTS

A point of contact may be changed at any time by either party by providing a 10-day advance written notice to the other party. The Parties hereby designate the following points of contact during the Agreement Term:

CDFW Grant Manager:		Grantee Project Manager:	
Name:	Craig Zeff	Name:	Paul R. Detjens
Title:	Environmental Scientist	Title:	Senior Civil Engineer
Address:	PO Box 944209 Sacramento, CA 94244-2090	Address:	255 Glacier Drive Martinez, CA 94553
Phone:	916-376-8622	Phone:	925-313-2394
Email:	Craig.Zeff@wildlife.ca.gov	Email:	Paul.detjens@pw.cccounty.us

Direct all administrative inquiries to:

CDFW Grant Coordinator:		Grantee Project Coordinator:	
Name:	Elizabeth Butler	Name:	Tim Jensen
Title:	AGPA	Title:	Assistant Chief Engineer
Address:	PO Box 944209 Sacramento, CA 94244-2090	Address:	255 Glacier Drive Martinez, CA 94553
Phone:	916.376.8623	Phone:	925-313-2390
Email:	Elizabeth.Buttler@wildlife.ca.gov	Email:	Tim.Jensen@pw.cccounty.us

SECTION 8 – REPORTS

8.01 Progress Reports: Grantee shall submit **quarterly** progress reports that comply with the requirements below to the CDFW Grant Manager. The CDFW Grant Manager will provide Grantee with progress report templates.

Requirements:

1. Grantee name, the Project title, this Agreement number, and dates progress report covers;
2. Activities and tasks performed and/or completed, a summary of progress to date including progress since the last report, and a brief outline of upcoming work scheduled for the subsequent quarter;
3. Documentation of all subcontractor activities;
4. Updates on progress towards meeting Project objectives, output and outcome performance measures;
5. Document delivery of any intermediate work products;
6. Costs incurred during the subject period, total of costs incurred to date, and the remaining balance;
7. Any problems encountered while performing the tasks and proposed solutions, timeline for resolution, and status of previously unresolved problems; and
8. Grantee must submit Quarterly Progress Reports electronically in PDF or Microsoft Word compatible format and conform to the templates provided by the CDFW Grant Manager.

8.02 Draft and Final Reports: Grantee must submit a draft final report and final report electronically to the CDFW Grant Manager by the dates listed in Section 6.03.5 – Schedule of Due Dates and Deliverables (Draft Final Report and Final Report). The Draft Final Report and Final Report must summarize the life of the Agreement and describe the work and results pursuant to Section 6 - Project Statement. The CDFW Grant Manager will provide Grantee a sample final report template.

8.03 Project Close-Out Summary Report: Grantee must submit a Project close-out summary report to the CDFW Grant Manager in either PDF or Microsoft Word compatible format by the date listed in Section 6.03.5 – Schedule of Due Dates and Deliverables (Project Close-Out Summary Report). Grantee's Project Close-Out Summary Report must summarize the Project's accomplishments consistent with the Watershed Restoration Grants Program goals. Grantee shall include a Final Invoice (as defined in Section 9.02.2 of this Agreement) with the Project Close-Out Summary Report. The CDFW Grant Manager will provide Grantee with a Project Close-Out Summary Report template.

8.04 Document Accessibility: Grantee must submit all documentation required as part of this agreement to the CDFW Grant Manager in a format that meets web content accessibility standards (<https://www.wildlife.ca.gov/Accessibility>).

SECTION 9 – BUDGET AND PAYMENT

9.01 Budget Details and Funding Summary: Grantor will provide an amount not to exceed \$1,350,000 as detailed in the Line Item Budget Detail (Budget) below. Grantee will provide \$2,447,566 in funds or in-kind services as cost share to complete the tasks described in Section 6 – Project Statement. Other funders will provide up to \$3,875,000 in funds or in-kind services as cost share to complete tasks described in Section 6 - Project Statement. Grantee will provide Grantor accurate records of all cost share with the Final Invoice.

Line Item Budget Detail	
A. PERSONNEL SERVICES	
Project Role 1	\$0
Project Role 2	\$0
Subtotal Personnel Services	\$0
Staff Benefits	\$0
Subtotal Personnel Services	\$0
B. OPERATING EXPENSES: GENERAL	
Field Supplies	\$0
Travel (Not to exceed State reimbursement rates)	\$0
Subtotal Operating Expenses: General	\$0
C. OPERATING EXPENSES: SUBCONTRACTORS	
Subcontractor 1 – construction	\$150,000
Subcontractor 2 – biological monitoring (pre and post)	\$700,000
Subcontractor 3 – construction management/inspection	\$500,000
Subtotal Operating Expenses: Subcontractors	\$1,350,000
D. OPERATING EXPENSES: EQUIPMENT	
Equipment item	\$0
Subtotal Operating Expenses: Equipment	\$0
E. INDIRECT COSTS	
Indirect Charge Rate XX% (Applies to Sections A + B, and the first \$25K of each subcontractor)	\$0
F. GRAND TOTAL (A+B+C+D+E)	\$1,350,000

9.01.1 Budget Flexibility: Any change to the Budget must comply with Section 5.04 of this Agreement. Grantee may submit requests to revise the Budget to the CDFW Grant Manager. Grantor has sole discretion to approve or deny such requests.

The CDFW Grant Manager has authority to approve Grantee requests to revise the Budget by moving up to 10% of the Grant Funds from one line item to another **within** a Budget category (e.g., Field Supplies to

Travel, within Category B: Operating Expenses) and that meet the following criteria:

1. Are consistent with the purpose, objectives, and description of the Project as detailed in Section 6 - Project Statement;
2. Do not increase or decrease the amount of Grant Funds; and
3. Do not substitute key personnel.

All other Grantee requests to revise the Budget may only be authorized by the Chief of CDFW's Watershed Restoration Grants Branch or other person with authority to sign agreements on behalf of CDFW.

9.02 Payment Provisions

9.02.1 Disbursements: Grantor will disburse Grant Funds to Grantee not more frequently than quarterly in arrears, upon receipt of an original itemized invoice and any required mandatory documentation as identified in Section 6.03.5 – Schedule of Due Dates and Deliverables.

Disbursements will be mailed to the following Grantee address:

Grantee Name:	Contra Costa County Flood Control and Water Conservation District
Attention:	Beth Balita, Finance Division
Address:	255 Glacier Drive Martinez, CA 94553

9.02.2 Invoice Documentation: Each invoice for payment must be accompanied by a written description, not to exceed two pages in length, of Grantee's performance under this Agreement 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. The report may be in the form of a Quarterly Progress Report. The final invoice must include a budget summary of all cost share expenditures by fund source, as applicable (Final Invoice). The CDFW Grant Manager will provide Grantee with a sample invoice template. The Final Invoice is due in accordance with Section 6.03.5– Schedule of Due Dates and Deliverables. The invoice package must be either mailed hard copy or electronic submission to the CDFW Grant Manager.

Requirements: The invoice shall contain the following information:

1. The word "Invoice" should appear in a prominent location at the top of the page(s);
2. Printed name of Grantee on company letterhead;

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3. Grantee's business address, including P.O. Box, City, State, and Zip Code;
4. Name the CDFW Watershed Restoration Grants Branch as the entity being billed;
5. The invoice date and the time period covered; i.e., the term "from" and "to";
6. This Agreement number and the sequential number of the invoice (i.e., Q2096013-Invoice 1);
7. The invoice must be itemized using the categories and following the format of the Budget;
8. The total amount due. This should be in a prominent location in the lower right-hand portion of the last page and clearly distinguished from other figures or computations appearing on the invoice. The total amount due shall include all costs incurred by Grantee under the terms of this Agreement;
9. The original signature of Grantee; and
10. Grantee must provide supporting documentation for the invoice and actual receipts.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of Grantor date set forth below the signature.

CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By:

Signature: _____

Printed Name: Brian M. Balbas, Authorized Agent for Grantee

Title: Chief Engineer

Date: _____

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

By:

Signature: _____

Printed Name: Matt Wells

Title: Chief, Watershed Restoration Grants Branch

Date: _____

This Agreement is exempt from DGS-OLS approval, per SCM 4.06.



CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
EXHIBIT 1a – PUBLIC ENTITIES GENERAL GRANT PROVISIONS

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1. **APPROVAL**: This Agreement is of no force or effect until signed by both Parties and approved by CDFW or Grantor. Grantee may not commence performance until such approval has been obtained.
2. **AMENDMENT**: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the Parties and approved as required. No oral understanding or Agreement not incorporated in this Agreement is binding on either of the Parties.
3. **ASSIGNMENT**: This Agreement is not assignable by Grantee, either in whole or in part, without the consent of CDFW in the form of a formal written amendment.
4. **AUDIT**: Grantee agrees that CDFW, the Department of General Services (DGS), 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, CCR Title 2, Section 1896).
5. **INDEMNIFICATION**: Grantee agrees to indemnify, defend and save harmless the State of California, CDFW, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all of Grantee's employees or agents, contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Grantee in the performance of this Agreement.

The State of California shall defend, indemnify and hold Grantee, its officers, employees and agents harmless from and against any and all liability, loss, expense, attorney's fees, or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the State of California, or its agencies, their respective officers, agents or employees.

6. **DISPUTES**: Grantee shall continue with the responsibilities under this Agreement during any dispute.
7. **INDEPENDENT CONTRACTOR**: 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



CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
EXHIBIT 1a – PUBLIC ENTITIES GENERAL GRANT PROVISIONS

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employees or agents of CDFW. Grantee acknowledges and promises that CDFW is not acting as an employer to any individuals furnishing services or work pursuant to this Agreement.

- 8. 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 ensure 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 there under (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.

- 9. 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.
- 10. LICENSES AND PERMITS (If Applicable):** 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 Agreement only if approved in the budget detail and payment provisions section.
- 11. RIGHTS IN DATA:** Grantee agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes and other written or graphic work produced in the performance of this Agreement, are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, Grantee may copyright the same, except that, as to any work which is copyrighted by Grantee, the State reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so.
- 12. CONTINGENT FUNDING:** It is mutually understood between the Parties that this Agreement may have been written before ascertaining the availability of State appropriation of funds for the mutual benefit of both Parties in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.



**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
EXHIBIT 1a – PUBLIC ENTITIES GENERAL GRANT PROVISIONS**

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CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

This Agreement is valid and enforceable only if sufficient funds are made available pursuant to the California State Budget Act for the fiscal year(s) covered by this Agreement for the purposes of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Legislature of any statute enacted by the Legislature which may affect the provisions, terms or funding of this Agreement in any manner.

It is mutually agreed that if the Legislature does not appropriate sufficient funds for the Agreement, the State has the option to terminate the Agreement under the termination clause or to amend the Agreement to reflect any reduction of funds. CDFW has the option to invalidate the contract under the 30-day cancellation clause or to amend the Agreement to reflect any reduction in Grant Funds.

13. RIGHT TO TERMINATE:

- a. This agreement may be terminated by mutual consent of both parties or by any party upon thirty (30) days written notice and delivered by USPS First Class or in person.
- b. In the event of termination of this Agreement, Grantee shall immediately provide CDFW an accounting of all funds received under this Agreement and return to CDFW all Grant Funds received under this Agreement which have not been previously expended to provide the services outlined within this Agreement.
- c. Any such termination of this Agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. CDFW shall reimburse Grantee for all allowable and reasonable costs incurred by it for the Project, including foreseeable and uncancellable obligations. Upon notification of termination from CDFW, Grantee shall use its reasonable efforts to limit any outstanding financial commitments.

14. CONFIDENTIALITY OF DATA: Grantee shall protect from disclosure all information made available by CDFW. Grantee shall not be required to keep confidential any data or information which is publicly available, independently developed by Grantee, or lawfully obtained from third parties. Written consent of CDFW must be obtained prior to disclosing information under this Agreement.

15. DISCLOSURE REQUIREMENTS: Any document or written report prepared in whole or in part pursuant to this Agreement shall contain a disclosure statement indicating that the document or written report was prepared through an Agreement with CDFW. The disclosure statement shall include this Agreement number and dollar amount of all Agreements and subcontracts relating to the preparation of such documents or written reports. The disclosure statement shall be contained in a separate section of the document or written report.

If Grantee or any subcontractor(s) are required to prepare multiple documents or written reports, the disclosure statement may also contain a statement indicating that the total Agreement amount represents compensation for multiple documents or written reports. Grantee shall



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include in each of its subcontracts for work under this Agreement, a provision which incorporates the requirements stated within this section.

16. USE OF SUBCONTRACTOR(S): If Grantee desires to accomplish part of the services through the use of one (1) or more subcontractors, the following conditions must be met:

- a. Grantee shall submit any subcontracts to CDFW for inclusion in the grant file;
- b. The Agreement between the primary Grantee and the subcontractor must be in writing;
- c. The subcontract must include specific language which establishes the rights of the auditors of the State to examine the records of the subcontractor relative to the services and materials provided under the Agreement; and
- d. Upon termination of any subcontract, CDFW Grant Manager shall be notified immediately, in writing.

Grantee shall ensure that any subcontract in excess of \$100,000 entered into as a result of this Agreement contains all applicable provisions stipulated in this Agreement.

17. POTENTIAL SUBCONTRACTOR(S): Nothing contained in this Agreement or otherwise shall create any contractual relation between CDFW, and any subcontractor(s) and no subcontract shall relieve Grantee of its responsibilities and obligations hereunder. Grantee agrees to be as fully responsible to CDFW for the acts and omissions of its subcontractor(s) and of persons directly employed or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Grantee. Grantee's obligation to pay its subcontractor(s) is an independent obligation from CDFW's obligation to make payments to Grantee. As a result, CDFW shall have no obligation to pay or to enforce the payment of any monies to any subcontractor.

18. TRAVEL AND PER DIEM (if applicable): Grantee agrees to pay reasonable travel and per diem to its employees under this Agreement. The reimbursement rates shall not exceed those amounts identified in the California Department of Human Resources travel reimbursement guidelines. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from CDFW.

19. LIABILITY INSURANCE (as applicable): Unless otherwise specified in the Agreement, when Grantee submits a signed Agreement to the State, Grantee shall also furnish to the State either proof of self-insurance or a certificate of insurance stating that there is liability insurance presently in effect for Grantee of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined. Grantee agrees to make the entire insurance policy available to the State upon request.

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



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- a. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to the State;
- b. The State of California, its officers, agents, employees, and servants are included as additional insured, by insofar as the operations under this Agreement are concerned; and
- c. The State will not be responsible for any premiums or assessments 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. In the event said insurance coverage expires at any time or times during the term of this Agreement, Grantee agrees to provide, 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 this Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the (DGS), and Grantee agrees that no work or services shall be performed prior to giving of such approval. In the event 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.

CDFW will not provide for, nor compensate Grantee for any insurance premiums or costs for any type or amount of insurance. The insurance required above, shall cover all Grantee supplied personnel and equipment used in the performance of this Agreement. When applicable, if subcontractors performing work under this Agreement do not have insurance equivalent to the above, Grantee's liability shall provide such coverage for the subcontractor, except for coverage for error, mistake, omissions, or malpractice, which shall be provided by the subcontractor if such insurance is required by the State.

20. GRANTEE STAFF REQUIREMENTS: Grantee represents that it has or shall secure at its own expense, all staff required to perform the services described in this Agreement. Such personnel shall not be employees of or have any contractual relationship with CDFW.

21. PROPERTY ACQUISITIONS AND EQUIPMENT PURCHASES: Property, exclusive of real property, as used in this exhibit shall include the following:

- a. Equipment – Tangible property (including furniture and electronics) with a unit cost of \$5,000 or more and a useful life of four (4) years or more. Actual cost includes the purchase price plus all costs to acquire, install, and prepare the equipment for its intended use.
- b. Furniture, including standard office furnishings including desks, chairs, bookcases, credenzas, tables, etc.
- c. Portable Assets, including items considered 'highly desirable' because of their portability and value, e.g., calculators, computers, printers, scanners, shredders, cameras, etc.
- d. Electronic Data Processing (EDP) Equipment, including all computerized and auxiliary automated information handling, including system design and analysis; conversion of data;



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computer programming; information storage and retrieval; voice, video and data communications; requisite system controls; simulation and all related interactions between people and machines.

Grantee may purchase property under this Agreement only if specified in the Budget section. All property purchased by Grantee is owned by Grantee. CDFW does not claim title or ownership to the property but, requires Grantee to maintain accountability for all property purchased with grant funds.

Title or ownership to property 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 CDFW's Grant Manager.

Before property purchases made by Grantee are reimbursed by CDFW, Grantee shall submit paid Grantee receipts identifying the Grant Agreement Number, purchase price, description of the item(s), serial number(s), model number(s), and location, including street address where property will be used during the term of this Agreement. Said paid receipts shall be attached to Grantee's invoice(s).

Grantee shall keep, and make available to Grantor, adequate and appropriate records of all property purchased with the Grant Funds.

Prior written authorization by the CDFW Grant Manager shall be required before Grantee will be reimbursed for any property purchases not specified in the budget. Grantee shall provide to CDFW Grant Manager, all particulars regarding the necessity for such property and the reasonableness of the cost.

Property will only be considered for purchase approval if no other equipment owned by the applicant is available and suitable for the project.

Grant Funds cannot be used to reimburse the project for equipment obtained prior to the beginning of the grant term.

Grant Funds cannot be used for property if specifically prohibited in the authorizing Legislation or restricted in the terms of the program.

Should this Agreement be cancelled for any reason, any property purchased with Grant Funds shall be returned to Grantor.

State policies and procedures applicable to procurement with nonfederal funds, shall apply to procurement by Grantee under this Agreement, provided that procurements conform to applicable State law and the standards identified in this exhibit. These include but are not limited to: statutes applicable to State agencies; statutes applicable to State colleges and universities;



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public works projects; the California Constitution governing University of California contracting, the State Administrative Manual; statutes applicable to specific local agencies; applicable city and county charters and implementing ordinances including policies and procedures incorporated in local government manuals or operating memoranda.

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**EXHIBIT 2
LEGAL DESCRIPTION**

All that certain property situated in the County of **Contra Costa**, State of California, described as follows:

South Reach:

Parcel 15B as granted by V. P. Baker, et al. to the Contra Costa County Flood Control and Water Conservation District by grant deed recorded February 17, 1966 in Book 5060 Page 567.

North Reach:

APN 159-310-030 as described in tax deed 2002-0330282 between the Tax Collector of Contra Costa County and the Contra Costa County Flood Control and Water Conservation District, executed on September 16, 2002.

APN 159-310-031 as described in tax deed 2002-0330281 between the Tax Collector of Contra Costa County and the Contra Costa County Flood Control and Water Conservation District, executed

Exhibit 3 – Location Map

