GRANT AGREEMENT BETWEEN THE STATE OF CALIFORNIA (DEPARTMENT OF WATER RESOURCES), AND CONTRA COSTA COUNTY FLOOD AND WATER CONSERVATION DISTRICT

AGREEMENT NUMBER 4600014043

FOR A GRANT UNDER THE URBAN STREAMS RESTORATION PROGRAM WATER CODE SECTIONS 7048-7049

THIS GRANT AGREEMENT is entered into by and between the Department of Water Resources of the State of California, herein referred to as the "State" or "DWR," the Contra Costa County Flood Control and Water Conservation District, a public agency created under laws of the State of California ("Sponsor"), and John Muir Chapter, Trout Unlimited ("Cosponsor"), a non-profit organization. The Project Sponsor and Cosponsor will be collectively referred to as the "Grantee." State and Grantee do hereby agree as follows:

- 1. <u>PURPOSE.</u> The purpose of this Agreement is to provide Urban Stream Restoration Program (USRP) grant funds pursuant to Water Code sections 7048-7049 and as provided for by the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for all Act of 2018 (Proposition 68) for the Wildcat Creek Fish Passage and Community Engagement Project (Project) as set forth in Exhibit A "Work Plan", planning of a project affecting an Urban Stream which will reduce flooding and erosion damage, protect or restore natural ecological values of streams, and promote community involvement, education, and stewardship on Wildcat Creek in Contra Costa County.
- TERM OF GRANT AGREEMENT. The term of this Grant Agreement is initiated on the date of execution, through final payment plus three (3) years unless otherwise terminated or amended as provided in this Agreement. However, all work shall be completed by June 30, 2024, and no funds may be requested after December 31, 2024. The reasonable cost of the Project is estimated to be \$784,775.
- 3. <u>FUNDING AMOUNT.</u> The maximum amount payable by the State under this Agreement shall not exceed \$784,775. Subject to the availability of funds, the State shall provide a grant to the Grantee to assist in financing the Project to be carried out as described in Exhibit A (Work Plan).
- 4. GRANTEE COST SHARE. The Grantee agrees to fund the difference between the actual Total Project Cost, as estimated in Exhibit B "Budget", and the amount specified in Paragraph 3 "Funding Amount" if any. Cost Share consists of Funding Match and Other State Funds, as documented in Exhibit B; see Exhibit H "Standard Conditions" for guidance. Funding Match is equivalent to Cost Share when Other State Funds are not present. The Grantee is not required to provide a Funding Match of the Total Project Cost. The Grantee's required funding match is estimated to be \$0. Costs incurred or in-kind services performed after June 5, 2018, may be counted as Funding Match.
- 5. <u>BASIC CONDITIONS.</u> The State shall have no obligation to disburse money for the Project under this Grant Agreement until the Grantee has satisfied the following conditions:
 - A. The Sponsor demonstrates the availability of sufficient funds to complete the Project, as stated in the Award Letter, by submitting the most recent three (3) years of audited financial statements.
 - B. For the term of this Grant Agreement, the Grantee submits timely Quarterly Progress Reports as required by Paragraph 12 "Submission of Reports" and in Exhibit A "Work Plan".
 - C. The Grantee submits all deliverables as specified in Paragraph 12 "Submittal of Reports" of this Grant agreement and in Exhibit A "Work Plan".
 - D. Prior to the commencement of construction or implementation activities, the Grantee shall submit the following to the State:

- When applicable, final plans and specifications certified by a California Registered Civil Engineer as to compliance for each approved project as listed in Exhibit A "Work Plan" of this Grant Agreement.
- ii. A final Monitoring and Maintenance Plan as required by Paragraph 13 "Project Monitoring and Maintenance Plan Requirements."
- iii. Work that is subject to the California Environmental Quality Act (CEQA) and or environmental permitting shall not proceed under this Grant Agreement until the following actions are performed:
 - a. The Grantee submits to the State all applicable environmental permits as indicated in the Application,
 - b. Documents that satisfy the CEQA process are received by the State,
 - c. The State has completed its CEQA compliance review as a Responsible Agency, and
 - d. The Grantee receives written concurrence from the State of the Lead Agency's CEQA document(s) and the State's notice of verification of environmental permit submittal.

The State's concurrence of the Lead Agency's CEQA documents is fully discretionary and shall constitute a condition precedent to any work (i.e., construction or implementation activities) for which it is required. Once CEQA documentation has been completed, the State will consider the environmental documents and decide whether to continue to fund the project or to require changes, alterations or other mitigation. The Grantee must also demonstrate that it has complied with all applicable requirements of the National Environmental Policy Act (NEPA) by submitting copies of any environmental documents, including environmental impact statements, Finding of No Significant Impact, mitigation monitoring programs, and environmental permits as may be required prior to beginning construction/implementation.

- 6. <u>DISBURSEMENT OF FUNDS</u>. Following the review and approval of each invoice, the State will disburse to the Sponsor the amount approved, subject to the availability of funds through normal State processes. Notwithstanding any other provision of this Grant Agreement, no disbursement shall be required at any time or in any manner which is in violation of, or in conflict with, federal or state laws, rules, or regulations, or which may require any rebates to the federal government, or any loss of tax-free status on state bonds, pursuant to any federal statute or regulation. Any and all money disbursed to the Grantee under this Grant Agreement shall be deposited in a non-interest bearing account and shall be used solely to pay Eligible Project Costs.
- 7. <u>ELIGIBLE PROJECT COST.</u> The Grantee shall apply State funds received only to Eligible Project Costs in accordance with applicable provisions of the law and Exhibit B "Budget". Eligible Project Costs include the reasonable costs of studies, engineering, design, land and easement acquisition, legal fees, preparation of environmental documentation, environmental mitigations, grant administration, project monitoring, community education and outreach, project construction and long-term management plan development. Reimbursable administrative expenses such as overhead expenses that are the necessary costs incidental but directly related to the Project included in this Agreement. Costs that are not eligible for reimbursement include, but are not limited to the following items:
 - A. Costs, other than those noted above, incurred prior to the award date of this Grant.
 - B. Operation and maintenance costs, including post construction performance and monitoring costs.
 - C. Purchase of equipment not an integral part of a project.
 - D. Establishing a reserve fund.

- E. Purchase of water supply.
- F. Monitoring and assessment costs for efforts required after project construction is complete.
- G. Replacement of existing funding sources for ongoing programs.
- H. Support of existing agency requirements and mandates (e.g., punitive regulatory agency requirement).
- I. Purchase of land in excess of the minimum required acreage necessary to operate as an integral part of a project, as set forth and detailed by engineering and feasibility studies, or land purchased prior to June 5, 2018.
 - Overhead and indirect costs not directly tied to the project. "Indirect Costs" means those costs that are incurred for a common or joint purpose benefiting more than one cost objective and are not readily assignable to the funded project (i.e., costs that are not directly related to the funded project). Examples of Indirect Costs include, but are not limited to: central service costs; general administration of the Grantee; non-project-specific accounting and personnel services performed within the Grantee's organization; depreciation or use allowances on buildings and equipment; the costs of operating and maintaining non-project-specific facilities; tuition and conference fees; and, generic overhead or markup. This prohibition applies to the Grantee and any subcontract or sub-agreement for work on the Project that will be reimbursed pursuant to this Agreement.
- 8. METHOD OF PAYMENT. After the disbursement requirements in Paragraph 6 "Disbursement of Funds" are met, the State will disburse the whole or portions of State funding to the Sponsor, following receipt from the Sponsor via US mail or Express mail delivery of a "wet signature" invoice, or an electronic invoice certified and transmitted via DocuSign for costs incurred, including Cost Share, and timely Quarterly Progress Reports as required by Paragraph 12, "Submission of Reports." Payment will be made no more frequently than quarterly, in arrears, upon receipt of an invoice bearing the Grant Agreement number. The State will notify the Sponsor, in a timely manner, whenever, upon review of an Invoice, the State determines that any portion or portions of the costs claimed are not eligible costs or is not supported by documentation or receipts acceptable to the State. Sponsor may, within thirty (30) calendar days of the date of receipt of such notice, submit additional documentation to State to cure such deficiency(ies). If the Sponsor fails to submit adequate documentation curing the deficiency(ies), the State will adjust the pending invoice by the amount of ineligible or unapproved costs.

Invoices submitted by the Sponsor (vendor) shall include the following information:

- A. Costs incurred for work performed in implementing the Project during the period identified in the particular invoice.
- B. Costs incurred for any interests in real property (land or easements) that have been necessarily acquired for the Project during the period identified in the particular invoice for the implementation of the Project
- C. Invoices shall be submitted on forms provided by the State and shall meet the following format requirements:
 - i. Invoices must contain the date of the invoice, the time period covered by the invoice, and the total amount due.
 - ii. Invoices must be itemized based on the categories (i.e., tasks) specified in Exhibit B "Budget" The amount claimed for salaries/wages/consultant fees must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = the total amount claimed).

- iii. One set of sufficient evidence (i.e., receipts, copies of checks, time sheets) must be provided for all costs included in the invoice.
- iv. Each invoice shall clearly delineate those costs claimed for reimbursement from the State's funding amount, as depicted in Paragraph 3, "Funding Amount" and those costs that represent the Grantee's costs, as applicable, in Paragraph 4, "Grantee Cost Share."
- v. Original signature and date (in ink) of Sponsor's Project Representative. Submit the original "wet signature" copy of the invoice form to the following address or an electronic signature certified and transmitted via DocuSign from authorized representative to:
 - a. Electronically at:

usrpinfo@water.ca.gov and CC: Esther.Tracy@water.ca.gov

b. US Postal Service at:

Esther Tracy, Lead

Urban Streams Restoration Program

Department of Water Resources

PO BOX 942836

Sacramento, California 94236-0001

All invoices submitted shall be accurate and signed under penalty of law. Any and all costs submitted pursuant to this Agreement shall only be for the tasks set forth herein. The Sponsor shall not submit any invoice containing costs that are ineligible or have been reimbursed from other funding sources unless required and specifically noted as such (i.e., match costs/cost share). Any eligible costs for which the Grantee is seeking reimbursement shall not be reimbursed from any other source. Double or multiple billing for time, services, or any other eligible cost is illegal and constitutes fraud. Any suspected occurrences of fraud, forgery, embezzlement, theft, or any other misuse of public funds may result in suspension of disbursements of grant funds and/or termination of this Agreement requiring the repayment of all funds disbursed hereunder plus interest. Additionally, the State may request an audit pursuant to Paragraph H.5 "Audits" and refer the matter to the Attorney General's Office or the appropriate district attorney's office for criminal prosecution or the imposition of civil liability. (Civ. Code, §§ 1572-1573; Pen. Code, §§ 470, 487-489.)

9. WITHHOLDING OF DISBURSEMENTS BY THE STATE. If the State determines that the Project is not being implemented in accordance with the provisions of this Grant Agreement, or that the Grantee has failed in any other respect to comply with the provisions of this Grant Agreement, and if the Grantee does not remedy any such failure to the State's satisfaction, the State may withhold from the Grantee all or any portion of the State funding and take any other action that it deems necessary to protect its interests. Where a portion of the State funding has been disbursed to the Grantee and the State notifies the Grantee of its decision not to release funds that have been withheld pursuant to Paragraph 6 "Disbursement of Funds", the portion that has been disbursed shall thereafter be repaid immediately with interest at the California general obligation bond interest rate at the time the State notifies the Grantee, as directed by the State. The State may consider the Grantee's refusal to repay the requested disbursed amount a contract breach subject to the default provisions in Paragraph 10, "Default Provisions." If the State notifies the Grantee of its decision to withhold the entire funding amount from the Grantee pursuant to this paragraph, this Grant Agreement shall terminate upon receipt of such notice by the Grantee and the State shall no longer be required to provide funds under this Grant Agreement and the Grant agreement shall no longer be binding on either party.

- 10. <u>DEFAULT PROVISIONS.</u> The Grantee will be in default under this Grant Agreement if any of the following occur:
 - A. Substantial breaches of this Grant Agreement, or any supplement or amendment to it, or any other agreement between the Grantee and the State evidencing or securing the Grantee's obligations.
 - B. Making any false warranty, representation, or statement with respect to this Grant Agreement or the application filed to obtain this Grant agreement.
 - C. Failure to operate or maintain project in accordance with this Grant Agreement.
 - D. Failure to make any remittance required by this Grant Agreement, including any remittance recommended as the result of an audit conducted pursuant to Paragraph H.5.
 - E. Failure to submit timely progress reports.
 - F. Failure to routinely invoice the State.
 - G. Failure to meet any of the requirements set forth in Paragraph 11 "Continuing Eligibility."

Should an event of default occur, the State shall provide a notice of default to the Grantee and shall give the Grantee at least ten (10) calendar days to cure the default from the date the notice is sent via first-class mail to the Grantee. If the Grantee fails to cure the default within the time prescribed by the State, the State may do any of the following:

- A. Declare the funding be immediately repaid, with interest, which shall be equal to the State of California general obligation bond interest rate in effect at the time of the default.
- B. Terminate any obligation to make future payments to the Grantee.
- C. Terminate the Grant Agreement.
- D. Take any other action that it deems necessary to protect its interests.

In the event the State finds it necessary to enforce this provision of this Grant Agreement in the manner provided by law, the Grantee agrees to pay all costs incurred by the State including, but not limited to, reasonable attorneys' fees, legal expenses, and costs.

- 11. <u>CONTINUING ELIGIBILITY.</u> The Grantee must meet the following ongoing requirement(s) to remain eligible to receive State funds:
 - A. Maintain compliance with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.).
 - B. Grantees must adhere to the protocols developed pursuant to The Open and Transparent Water Data Act (Wat. Code, § 12406) for data sharing, transparency, documentation, and quality control.
 - C. Maintain the relationship and commitments of all parties for the duration of the Grant Agreement as set forth in Exhibit E "Authorizing Resolutions".
 - D. Respond to and address all comments and concerns from the State regarding grant management, project signs, public notices, deliverable and invoice approval and review, and any other reasonable and prudent requests directly related to grant administration.
- 12. <u>SUBMISSION OF REPORTS</u>. The submittal and approval of all reports is a requirement for the successful completion of this Grant Agreement. Reports shall meet generally accepted professional standards for technical reporting and shall be proofread for content, numerical accuracy, spelling, and grammar prior to submittal to the State. All reports shall be signed by the Grantee and submitted to the State's Grant Manager, reports shall be submitted in electronic form preferably or in hardcopy form if necessary. If requested, the Grantee shall promptly provide any additional information

deemed necessary by the State for the approval of reports. Reports shall be presented in the formats described in the applicable portion of Exhibit I "Report Formats & Requirements". The timely submittal of reports is a requirement for initial and continued disbursement of State funds. Submittal and subsequent approval by the State, of a Project Completion Report is a requirement for the release of any funds retained for such project.

- A. Quarterly Progress Reports: The Grantee shall submit Quarterly Progress Reports electronically on forms provided by the State to meet the State's requirement for disbursement of funds in accordance with Exhibit I "Report Format Requirements". The first Quarterly Progress Report should be submitted to the State no later than July 15, 2021, with future reports then due on successive three-month increments based on the invoicing schedule and this date. The Grantee shall prepare all 4th quarter progress reports with an annual summary of Project activities for that year in a manner and style as dictated by the State.
- B. Final Report: The Grantee shall provide a final written report in a format as directed by the State in Exhibit I "Report Formats and Requirements" within ninety (90) days of Project completion
- C. Annual Monitoring Reports: The Grantee shall submit Annual Monitoring Reports within ninety (90) calendar days after the first operational year of the Project. This record keeping and reporting process shall be repeated annually for a total of three (3) years after the Project begins operation.
- 13. OPERATION AND MAINTENANCE OF THE PROJECT. For the useful life of construction and implementation projects and in consideration of the funding made by the State, the Grantee agrees to ensure or cause to be performed the commencement and continued operation of the Project, and shall ensure or cause the Project to be operated in an efficient and economical manner; shall ensure all repairs, renewals, and replacements necessary to the efficient operation of the same are provided; and shall ensure or cause the same to be maintained in as good and efficient condition as upon its construction, ordinary and reasonable wear and depreciation excepted. The State shall not be liable for any cost of such maintenance, management, or operation. The Grantee or their successors may, with the written approval of the State, transfer this responsibility to use, manage, and maintain the property. For purposes of this Grant Agreement, "useful life" means period during which an asset, property, or activity is expected to be usable for the purpose it was acquired or implemented; "operation costs" include direct costs incurred for material and labor needed for operations, utilities, insurance, and similar expenses, and "maintenance costs" include ordinary repairs and replacements of a recurring nature necessary for capital assets and basic structures and the expenditure of funds necessary to replace or reconstruct capital assets or basic structures. Refusal of the Grantee to ensure operation and maintenance of the Project in accordance with this provision may, at the option of the State, be considered a breach of this Grant agreement and may be treated as default under Paragraph 9, "Default Provisions."
- 14. PROJECT MONITORING AND MAINTENANCE PLAN REQUIREMENTS. "Monitoring and Maintenance Plan" shall outline the Grantee's plans for monitoring the restored site, assessing maintenance needs, and carrying out known and unanticipated maintenance actions necessary or required during and after completion of the Project in accordance with Exhibit A "Work Plan". The Grantee shall prepare a Draft Monitoring and Maintenance Plan during the design phase of the Project and submit it to the State in accordance with Exhibit A "Work Plan" The Final Monitoring and Maintenance Plan shall be approved prior to disbursement of grant funds for construction or monitoring activities. The Monitoring and Maintenance Plan shall include the elements described in Exhibit D.
- 15. <u>NOTIFICATION OF THE STATE.</u> The Grantee shall promptly notify the State, in writing, of the following items:
 - A. Events or proposed changes that could affect the scope, budget or work performed under this Grant Agreement. The Grantee agrees that no substantial change in the scope of the Project

will be undertaken until written notice of the proposed change has been provided to the State and the State has given written approval for such change. Substantial changes generally include changes to the scope of work, schedule or term of the Agreement, and budget.

- B. Any public or media event publicizing the accomplishments and/or results of this Grant Agreement and provide the opportunity for attendance and participation by the State's representatives. The Grantee shall make such notification at least 14 calendar days prior to the event.
- C. Discovery of any potential archaeological or historical resource. Should a potential archaeological or historical resource be discovered during construction, the Grantee agrees that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the State has determined what actions should be taken to protect and preserve the resource. The Grantee agrees to implement appropriate actions as directed by the State.
- D. The initiation of any litigation or the threat of litigation against the Grantee regarding the Project or that may affect the Project in any way.
- E. Final inspection of the completed work on a project by a Registered Civil Engineer, in accordance with Standard Condition H.18 "Final Inspections and Certification of Registered Civil Engineer." The Grantee shall notify the State's Project Manager of the inspection date at least 14 calendar days prior to the inspection in order to provide the State the opportunity to participate in the inspection.
- 16. <u>NOTICES.</u> Any notice, demand, request, consent, or approval that either party desires or is required to give to the other party under this Grant agreement shall be in writing. Notices may be transmitted by the following mean:

By electronic means, sent to:

- usrpinfo@water.ca.gov and CC USRP Program Lead: Esther.Tracy@water.ca.gov
- Sponsor Lead: tim.jensen@pw.cccounty.us
- Cosponsor Lead: pmangarella44@gmail.com

Notices delivered in person will be deemed effective immediately on receipt (or refusal of delivery or receipt). Notices sent by certified mail will be deemed effective given ten (10) calendar days after the date deposited with the U. S. Postal Service. Notices sent by overnight delivery service will be deemed effective one business day after the date deposited with the delivery service. Notices sent electronically will be effective on the date of transmission, which is documented in writing. Notices shall be sent to the below addresses. Either party may, by written notice to the other, designate a different address that shall be substituted for the one below.

- 17. <u>PERFORMANCE EVALUATION</u>. Upon completion of this Grant agreement, Grantee's performance will be evaluated by the State and a copy of the evaluation will be placed in the State file and a copy sent to the Grantee.
- 18. <u>PROJECT REPRESENTATIVES.</u> The Project Representatives during the term of this Grant agreement are as follows:

Department of Water Resources Arthur Hinojosa, Chief Division of Regional Assistance P.O. Box 942836 Sponsor: Contra Costa County Flood Control and Water Conservation District
Gus Amirzehni, Associate Civil Engineer
Flood Control Division
255 Glacier Drive

Sacramento, CA 94236-0001

E-mail: Arthur.Hinojosa@water.ca.gov

Martinez, CA 94553

Phone number: (925) 313-2128

Email: Gus.Amirzehni@pw.cccounty.us

Direct all inquiries to:

Esther Tracy, Lead

Urban Streams Restoration Program

Department of Water Resources

P.O. Box 942836

Sacramento, CA 94236-0001

E-mail: Esther.Tracy@water.ca.gov

Cosponsor: John Muir Chapter, Trout

Unlimited

Peter Mangarella, Conservation Chair

5950 Doyle Street, Suite 2

Emeryville CA 94608

Email: pmangarella44@gmail.com

- 19. Either party may change its Project Representative or Grant Manager upon written notice to the other party.
- 20. <u>STANDARD PROVISIONS AND INTEGRATION</u>. This Grant Agreement is complete and is the final Agreement between the parties. The following Exhibits are attached and made a part of this Grant Agreement by this reference:

Exhibit A – Work Plan

Exhibit B – Budget

Exhibit C - Schedule

Exhibit D – Monitoring and Maintenance Plan

Exhibit E – Authorizing Resolutions

Exhibit F – Local Project and Funding Partners

Exhibit G – Project Location

Exhibit H – Standard Conditions

Exhibit I – Report Formats and Requirements

Exhibit J – Requirements Data Submittal

Exhibit K – State Audit Document Requirements and Cost Share Guideline

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

STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES	Contra Costa County Flood Control and Wate Conservation District				
Arthur Hinojosa, Chief Division of Regional Assistance	Brian Balbas, Chief Engineer				
Date	Date				
Approved as to Legal Form and Sufficiency	John Muir Chapter, Trout Unlimited				
for					
Robin Brewer, Assistant Chief Counsel	Nathan Ota, President				
Office of Chief Counsel					
Date	Date				

EXHIBIT A – WORK PLAN

Project Description: The Wildcat Creek Fish Passage and Community Engagement Project (Project) consists of the planning, design, and permitting of the restoration and improvements to Wildcat Creek and adjacent trail that will be constructed at a later time and with funds not provided with this Grant Agreement. The Sponsor will redesign and retrofit an existing fish ladder and downstream sediment basin in Wildcat Creek to improve flooding and potentially improve habitat connectivity for Central California Coast steelhead trout (*Oncorhynchus mykiss*).

The Sponsor will base the final construction plans (100% design), specifications, and estimates on the modifications to the 65% design developed by the U.S. Army Corps of Engineers (USACE) and Northwest Hydraulics Consultants with input from DWR. The final design will meet the USACE Section 408 process, California Department of Fish and Wildlife (CDFW), and National Marine Fisheries Service (NMFS) fish passage criteria for *Oncorhynchus mykiss* and will provide a facility that is less likely to clog during transport of high sediment load and trash. The design includes training walls and a widened basin to help stabilize the low flow channel in the sediment basin. Prior to developing the design for the channel modifications, the Sponsor will conduct additional analysis regarding modifications to the channel downstream of the major storm drain outfall. The Cosponsor will provide design review comments and feedback. The Sponsor, acting as lead agency for CEQA and regulatory permits, will obtain all environmental permits and approvals for the Project. The Cosponsor will provide environmental compliance assistance to the Sponsor. For long term success of the Project, the Sponsor will develop a design that will take into account the Monitoring and Maintenance Plan to ensure most trash and sediment is conveyed through the facility and deposited in the sedimentation basin.

The Sponsor and Cosponsor will work to complete tasks related to Community Outreach and Engagement, which include:

1) developing a comprehensive community outreach and engagement effort that includes opportunities for the community to participate in monitoring activities and will build on the current visioning effort for the Wildcat Creek Trail operated by the East Bay Regional Park District; 2) leading community workdays at nearby locations; 3) engaging the community through informational tours of the fish ladder and surrounding area; 4) providing educational benefits through internships with local non-governmental organizations; 5) obtaining feedback from the community through visioning surveys and facilitating design charettes and community meetings; 6) developing the Community Benefits Plan and; 7) developing design plans and permits for the amenities and interpretive features included in the Community Benefits Plan.

The Cosponsor will seek support from other interested community partners. The Cosponsor will also lead public outreach efforts, including conducting tours of the site; raise public awareness; and publicize the Project in newsletters and social media outlets.

Project Location: The Project is in Lower Wildcat Creek, an intermittent stream that is conveyed primarily through closed and open conveyance channel structures in the cities of San Pablo, Richmond, and unincorporated Contra Costa County (See Figure 1-1 Vicinity Map). The Project will improve habitat connectivity and flood control through the sediment basin and concrete channel located about 1000 feet downstream of Rumrill Boulevard (see Figure 1-2 Project Location)

Figure 1-1: Vicinity Map of the Project within the Wildcat Creek watershed



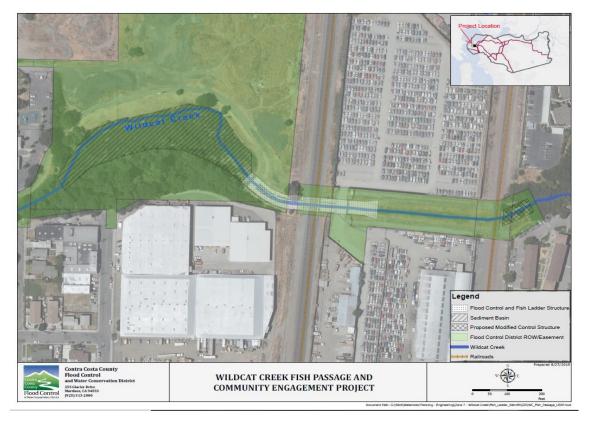


Figure 1-2: Area Map of the Project that includes the retrofitted fish ladder and modifications to the channel and sediment basin.

Project Goals: The restoration of Wildcat Creek will be designed to reduce local flooding, potentially improve habitat connectivity for Central California Coast steelhead trout (*Oncorhynchus mykiss*) and benefit the local disadvantaged community.

- Complete all planning, permitting, and environmental compliance for the Project that will accomplish the following when constructed:
 - o Retrofit the existing fish ladder and sediment basin within the Lower Wildcat Creek Flood Control Channel to create a more natural fish passage corridor.
 - o Result in potential improvements to aquatic ecosystem in terms of flow, temperature, water quality, habitat, macroinvertebrates, and riparian vegetation.
 - Modify the flood control channel to alleviate current flooding in the City of San Pablo, and
 - o Provide community benefits including youth education and trail and trail enhancements.

Tasks and Deliverables:

<u>Task 1 – Project Management</u>

The Sponsor will serve as project manager and grant administrator through the term of this Agreement and will oversee the Project and ensure the completion and submission of all deliverables required in this Agreement. The Cosponsor will assist the Sponsor with the grant administration and project management tasks.

The Sponsor will inform DWR of progress by regular communication, including quarterly reports as specified in Exhibit I. The Sponsor will coordinate with DWR and others as needed. In partnership, the Cosponsor and Sponsor will convene meetings or calls with DWR and others at key points during the Project (to be determined in the planning process) to discuss the Project and determine a path forward. The Sponsor will be responsible for coordinating with the corresponding project managers for the consultants, The Watershed Project, and the Cosponsor. Additionally, the Sponsor will coordinate activities as needed with permitting agencies. The Sponsor will prepare and submit a Draft Monitoring and Maintenance Plan, following Exhibit D, for DWR review and approval concurrently with the 70% and 90% project designs. The Sponsor will submit a Final Monitoring and Maintenance Plan for DWR review and approval with the Final (100%) design documents.

Task 1 Deliverables:

- Quarterly progress reports
- Consultant agreements
- Draft and final meeting notes
- Draft and Final Monitoring and Maintenance Plans
- Boundary of the Project location
- Digital copy of grant acknowledgement sign

Task 2 – Fish Ladder and Sediment Basin Retrofit Design

Subtask 2A – Technical Studies, Surveys and Assessments

The Sponsor will complete technical studies, surveys, and analyses required for the Project which include, but are not limited to hydrological and hydraulic modeling, geotechnical investigation, sediment analysis, site assessments, basis of design reporting, and ROW, easements, and environmental studies.

Subtask 2B - Fish Ladder Retrofit Design

The Sponsor will modify the existing 65% design of the preliminary fish ladder and sediment

basin and will incorporate DWR's comments for a more naturalized design subject to approval of the USACE. The Sponsor will prepare and deliver 70% and 90% design plans, specifications, and estimates and will submit to DWR for review and approval before proceeding to Final (100%) plans. The Cosponsor will provide design review comments and feedback.

Subtask 2C – Channel Modification and Flood Mitigation Design

The Sponsor will evaluate, select, and design a preferred channel geometry and configuration to reduce flooding and increase conveyance to Wildcat Creek, upstream of the Wildcat Creek Flood Control Channel. The Sponsor will prepare and deliver 70% and 90% design plans, specifications and estimates and will submit each to DWR for review and approval before proceeding to Final (100%) plans. The Cosponsor will provide design review comments and feedback.

Task 2 Deliverables:

- Hydrologic and Hydraulic Modeling Technical Memorandum
- Geotechnical Report
- Sedimentation Technical Memorandum
- Alternatives Development Report
- Basis of Design Report
- 70% Design Plans, Specifications, and Estimates
- 90% Design Plans, Specifications, and Estimates
- Final (100%) Plans, Specifications, and Estimates

Task 3 – Community Outreach and Engagement

Subtask 3A - Develop Community Outreach and Engagement Effort

The Sponsor will develop a comprehensive community outreach and engagement effort that includes the community in monitoring activities and will build on the current visioning effort for the Wildcat Creek Trail operated by the East Bay Regional Park District. The Cosponsor will seek support from other interested community partners and raise public awareness by publicizing the Project in newsletters and social media outlets.

Subtask 3B – Workdays

The Cosponsor will lead community workdays at the project site.

Subtask 3C – Informational Tours

The Cosponsor will engage the community through informational tours of the fish ladder and surrounding area. The Cosponsor will lead public outreach efforts, including conducting tours of the site.

Subtask 3D - Educational Benefits

The Cosponsor will provide educational benefits through internships with local non-governmental organizations.

Subtask 3E – Conduct Design Charrettes and Community Meetings

The Sponsor will facilitate the input of community members and stakeholders in the design of access and interpretation elements of areas in proximity to the fish ladder. Topics may include:

- Education about the history of Wildcat Creek, native rainbow trout, and the fish ladder.
- Feedback on the proposed elements in the trail.
- A map for participants to indicate locations for improvements.
- A model/map of the trail for participants to arrange the different elements.
- A visioning workshop at the trail site for participants to help arrange elements.

Subtask 3F – Develop Community Benefits Plan

The Sponsor will prepare a community benefit plan that incorporates desired use and access

by community members to the fish ladder, elements of interpretative signage, youth education, maintenance and operation training and employment opportunities for community members, and development of trail furnishings and thematic interpretation designs. The Sponsor will submit the Plan to DWR for review and approval before proceeding to the final Plan.

Subtask 3G – Design Plans for Amenities and Interpretive Features

The Sponsor will develop design plans for amenities and interpretative features following local and regional specifications. The plans will be presented to community members and local stakeholders for comment before submitting them for consideration by regional partners and DWR's review and approval.

Task 3 Deliverables

- Meeting notes from two design charrettes and two community meetings
- List of members of the community working group
- List of plans and designs presented to community working group
- Charrette and meeting pictures
- 50% Community Benefit Plan Document
- 75% Community Benefit Plan Document
- 100%Community Benefit Plan Document
- 50% Design plans of amenities and interpretative features
- 75% Design plans of amenities and interpretative features
- 100% Design Plans of amenities and interpretative features

Task 4 - Permitting and CEQA Compliance

The Sponsor will prepare environmental documents that satisfy the CEQA process. The Sponsor will coordinate with permitting agencies and obtain all regulatory permits necessary to construct the Project. The Cosponsor will assist the Sponsor with environmental compliance.

Task 4 Deliverables:

- Draft and final environmental review documents required under CEQA.
- Copy of permit applications (upon request)
 - o Biological Assessment Report
 - o Wetland Delineation Report
 - Essential Fish Habitat Technical Memorandum
- Environmental surveys and reports
- Right-Of-Way and Easements Technical Memorandum
- Hazardous Materials Report
- Cultural Resources Report & Archeological Sensitivity Map
- Final permits which may include the following:
 - CA Fish and Game Code Section 1601 Lake and Streambed Alteration Agreement (CDFW)
 - o Clean Water Act Section 404/408 Permit (USACE)
 - o Clean Water Act Section 401 Permit (Regional Water Quality Control Board)
 - Federal/CA Endangered Species Act Permit(s) (U.S. Fish and Wildlife Service / NMFS / CDFW)
 - Cultural Resources Assessment (National Historic Preservation Act, Section 106)
 required by USACE

EXHIBIT B – BUDGET

Project Budget Final: 6/7/2021						
Project Tasks	Total Project Costs	USRP Grant				
Task 1. Project Management	\$61,200	\$61,200				
Task 2. Fish Ladder and Sediment Basin Retrofit Design	\$356,350	\$356,350				
Task 3. Community Outreach	\$100,725	\$100,725				
Task 4. Permitting and CEQA Compliance	\$266,500	\$266,500				
Total Project Costs	\$784,775	\$784,775				

EXHIBIT C - SCHEDULE

		20	21		20	22			20	23		20	24
Task #	Project Elements	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
1	Project Management												
2	Fish Ladder and Sediment Basin Retrofit Design												
	Technical Studies, Surveys, and Assessments												
	Fish Ladder Retrofit Design												
	Channel Modification and Flood Mitigation												
3	Commmunity Outreach												
	Workdays												
	Informational Tours												
	Educational Benefits												
	Conduct Design Charrettes and Community Meeting	S											
	Develop Community Benefits Plan												
	Design Plans for Amenities and Interpretive Feature	S											
4	Permitting and CEQA Compliance												
	CEQA and Regulatory Permits												

EXHIBIT D - MONITORING AND MAINTENANCE PLAN

This Monitoring and Maintenance Plan (Plan) reflects the realistic long-term monitoring and maintenance needs of the Project and should acknowledge recommended activities even if each will only be performed pending the availability of future funding for such purposes. DWR is not requesting an additional commitment beyond the terms described in Paragraphs 13-14 of this Agreement. The Grantee will submit an initial Draft Plan with each design deliverable beginning with the preliminary 30% designs for State review and approval. The following outlines the types of information DWR requires in a comprehensive Plan.

Purpose

The purpose of this Plan is to ensure that grantees: (1) understand the potential Project performance risks to inform project design and future maintenance needs; (2) establish a scientifically sound mechanism for measuring performance through routine monitoring; (3) realistically plan for a scope of maintenance that enables you to maximize performance and the life of the Project; (4) compile all monitoring, maintenance, performance analysis, and reporting tasks in one place.

Project Information

- Project goals, measurable objectives, and the specific tasks undertaken to meet the objectives. Include the expected life of the Project.
- Site location and brief general history of the watershed and land-use at the site.
- Responsible parties, roles, and commitment timelines for activities described below (include any
 yet-to-be-determined parties where appropriate for long-term monitoring and maintenance
 activities)
- Describe how the Project restoration actions tie in with efforts in the greater watershed citing relevant watershed plans and assessments.
- [For projects targeting protected fishes] List and describe the limiting factors by site location for target fish populations by species and life stage and how restoration tasks treat these.

Potential Project Performance Risks – Evaluate the current maintenance needs of the Project site to understand future impacts to Project sustainability, which may reduce Project performance and the functional life of the Project.

- A. <u>Current Site Issues</u>: Describe the pre-project site conditions and inventory current maintenance needs that may continue after completion of the Project. Current maintenance needs such as occurrence of invasive weeds, prevalence of litter, and human uses such as unauthorized access for recreation or by unhoused people, etc. are likely to continue after Project completion.
- B. <u>Snapshot of Completed Project</u>: Describe what the Project site will look like at Project completion to compare to future conditions.
- C. <u>Expected Risks and Maintenance Needs</u>: List and describe of the anticipated risks to Project performance and maintenance needs of the Project site.

Performance-Based Monitoring

- A. <u>Performance Measures</u>: Complete Table 1 for all Project Objectives. Good Performance Measures allow for comparisons to be made to determine if the Project is meeting performance objectives and to enable improvements.
- B. <u>Monitoring</u>: Expanding upon the information in Table 1, list and describe how you will monitor the Project area during the pre-construction, construction, and short-term post-construction (within the term of grant agreement), and long-term management periods for baseline conditions;

environmental compliance; Project completion, habitat establishment, performance, and to reduce the long-term costs of maintenance. Since restoration projects require a regular schedule of ongoing monitoring to identify small problems before they become too expensive to manage, include monitoring indicators that will trigger specific maintenance actions described below.

Maintenance Activities – List and describe a suite of maintenance actions for the Project site based on your understanding of anticipated problems that are likely to or may occur at the Project site. All restoration sites are expected to require ongoing maintenance in order to maximize performance and the life of the project.

Since this grant does not fund long-term management of the Project site, we want you to make a recommendation for a maintenance schedule that will extend performance and sustainability of the project into perpetuity. This plan will make it easier to obtain any future state funding for these costs should it become available to our Program. The plan should include, but not be limited to, the following:

- A. <u>Maintenance schedule:</u> Describe maintenance activities, including frequency, duration, and maintenance metrics to be collected.
- B. <u>Adaptive Management Strategy</u>: Discuss what you will do if monitoring reveals an unanticipated and complex problem that poses a catastrophic risk to Project performance.

Documenting and Reporting – Describe how you will track implementation of this plan and report out on your activities. We recommend listing monitoring visits and maintenance actions performed by date and noting any recommendations for changes to this Plan based on lessons learned.

Table 1. Project Performance Measures Table. See definitions below. (Example)

Project Objective	Metric and Indicator	Baseline	Measurement	Monitoring Location	Monitoring Frequency	Monitoring Duration
Reduce 100-year peak flood flow by 530 cfs on Dry Creek Main Stem at Vernon Street in downtown Roseville	Metric: Water flow in cfs Indicator: Relative change in peak flows during flood events	The modeled 100- year peak flow (2007-Current basis) of Antelope Creek at Antelope Creek Drive crossing and downstream at Vernon Street, per 2011 updated HEC hydrologic model	Stream level data collected automatically during flood events, combined with rating curve at crossing utilized to compute peak flow	ALERT stream level gage located at the Antelope Creek Drive crossing	Immediately following each 100- year flood event; these events can occur at a 1% probability any given year	5 years following project completion
Avoid channel bottom down-cutting within 300 feet downstream of weir; No increased ponding within 300 feet upstream of weir	Metric: Elevation in feet. Indicator: > 0.5 foot change in channel bottom elevation	Establish pre- construction streambed elevations 300 feet up and downstream of weir location	Land Surveying techniques along streambed	Streambed along centerline of creek 300 feet up and downstream	Annually during low flow in the summer/fall	10 years following project completion

Project Objective	Metric and Indicator	Baseline	Measurement	Monitoring Location	Monitoring Frequency	Monitoring Duration
Increase the # of harmless site visits by people	Metric: 1) # of people per day; 2) # of unauthorize d site visits; 3) # of unhoused campsites Indicator: 10% increase in harmless site visits	Prior to construction perform one 3- hour visitor field count (10 am - 1pm)	3-hour field counts (10 am-1pm)	At new Upper Weir Trail on Antelope Creek Other areas along site.	Annually	3 years following project completion
Minimum 80% survival for Native Woody Riparian species; Maximum 15% survival for non- native woody or Perennial species; Increased use of Habitat features by targeted species	Metric: # of plants per type or species Indicator: <80% Mortality (Native Woody spp); >15% survival of non-native species	Establish photo points and procedures (time of day, angle of shot, direction, etc.) for taking images within restoration planting areas prior to planting and take photos.	Percent absolute cover; Annual mitigation report of vegetation establishment and habitat usage.	Established photo points	Semi-Annual for first year; Annually thereafter	5 years following planting.

Table Definitions.

- <u>Project Objectives</u>: A project objective is a lower level statement that describes the specific, tangible deliverable of the Project. Each should be specific and measurable, and must meet time, budget, and quality constraints.
- Metrics: One or more raw measurements collected to measure success of each objective.
- <u>Indicators</u>: Specific measurement that indicates status of the objective and may be used to determine performance success, trigger maintenance actions, etc.
- Baseline: Describes the established pre-project measurement to be collected for each metric.
- Measurement Tools and Methods: Describes how measurements will be taken.
- Monitoring Locations: Lists the precise locations where measurements are taken.
- Monitoring Frequency: Describes the rate of occurrence.
- Monitoring Duration or Range: Describes the total period for each metric to be measured.

EXHIBIT E – AUTHORIZING RESOLUTIONS

- Attach the following Final Documents:
 1. Sponsor Resolution
 2. Cosponsor Resolution
 3. Sponsor and Cosponsor Letter of Understanding

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 06/11/2019 by the following vote:

John Gioia

Candace Andersen

AYE:

5

Diane Burgis Karen Mitchoff Federal D. Glover

NO:

/

ABSENT:

ABSTAIN:

RECUSE:



Resolution No. 2019/189

In The Matter Of: Authorizing the Chief Engineer, Contra Costa County Flood Control and Water Conservation District (Flood Control District), or designee, to Apply, Accept, and Execute Grant Agreements and related Amendments with the California Department of Water Resources for the Wildcat Creek Fish Passage and Community Engagement Project, North Richmond area.

WHEREAS, the Flood Control District proposes to implement the Wildcat Creek Fish Passage and Community Engagement Project; and

WHEREAS, the Flood Control District intends to apply for grant funding from the California Department of Water Resources for the Wildcat Creek Fish Passage and Community Engagement Project.

WHEREAS, the Flood Control District has the legal authority and is authorized to enter into a funding agreement with the State of California, if selected for funding; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, as the governing body of the Flood Control District as follows:

- 1. That pursuant and subject to all of the terms and provisions of Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Pub. Resources Code, Section 75001 et seq.) and the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 (Pub. Resources Code, Section 80000 et seq.), the Chief Engineer, Flood Control District, or designee, is hereby authorized and directed to prepare and file an application for funding with the Department of Water Resources and take such other actions as necessary or appropriate to obtain grant funding.
- 2. The Chief Engineer, Flood Control District, or designee, is hereby authorized and directed to execute the funding agreement with the California Department of Water Resources and any amendments thereto.
- 3. The Chief Engineer, Flood Control District, or designee, is hereby authorized and directed to submit any required documents, invoices, and reports required to obtain grant funding.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

Contact: Gus Amirzehni, (925) 313-2128

ATTESTED: June 11, 2019

P. St. W. D. J. D.

cc: Laura Strobel, County Administrator's Office, Allison Knapp, Deputy Chief Engineer, Tim Jensen, Flood Con

By: Stacey M. Boyd, Deputy

Detjens, Flood Control, Gus

Amirzehni, Flood Control, Catherine Windham, Flood Control

RESOLUTION NO. [2021-1]

A RESOLUTION OF THE JOHN MUIR CHAPTER OF THE TROUT UNLIMITED AUTHORIZING THE GRANT APPLICATION, ACCEPTANCE, AND EXECUTION FOR THE WILDCAT CREEK FISH PASSAGE AND COMMUNITY ENGAGEMENT PROJECT

WHEREAS, John Muir Chapter of Trout Unlimited proposes to implement Wildcat Creek Fish Passage and Community Engagement Project;

WHEREAS, John Muir Chapter of Trout Unlimited has the legal authority and is authorized to enter into a funding

agreement with the State of California; and

WHEREAS, intends to apply for grant funding from the California Department of Water Resources for the;

THEREFORE, BE IT RESOLVED by the Board of Directors of the John Muir Chapter of Trout Unlimited as follows:

- 1. That pursuant and subject to all of the terms and provisions of the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Pub. Resources Code, 75001 et seq.) and the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 (Pub. Resources Code, § 80000 et seq.), the John Muir Chapter of Trout Unlimited President, or designee is hereby authorized and directed to prepare and file an application for funding with the Department of Water Resources, and take such otheractions as necessary or appropriate to obtain grant funding.
- 2. The John Muir Chapter of Trout Unlimited President, or designee is hereby authorized and directed to execute the funding agreement with the Department of Water Resources and any amendments thereto.

3. The John Muir Chapter of Trout Unlimited President, or designee is hereby authorized and directed to submit any required documents, invoices, and reports required to obtain grant funding.

CERTIFICATION I hereby certify that the foregoing Resolution was duly and regularly adopted by the Board of Directors of the John Muir Chapter of Trout Unlimited at the meeting held on May 20, 2021, motion by Nathan Ota and seconded by Peter Mangarella, motion passed by the following vote:

AYES: 10 (Nathan Ota, Roger Wachtler, Karla Campbell, Steven Cochrane, Loretta Strickland, Patrick Kallerman, Tim Silsbee, Richard Unger, Mary Tealdi, Peter Mangarella)

NOES: 0

ABSTAIN: 0

ABSENT:

Nathan Ota

President, John Muir Chapter of Trout Unlimited

Attest:

Peter Mangarella

Peter Mongarella

Secretary, John Muir Chapter of Trout Unlimited

Attachment 17. Letter of Understanding between Sponsor and Co-Sponsor



Brian M. Balbas, ex officio Chief Engineer Stephen Kowalewski, Interim Deputy Chief Engineer

May 9, 2019

John Muir Chapter of Trout Unlimited Peter Mangarella 4221 Hollis Street Emeryville, CA 94608

File: 4007-02

FCZ 7 Wildcat Creek Fish Ladder Retrofit

Subject:

Wildcat Creek Fish Ladder Retrofit Letter of Understanding

Dear Mr. Mangarella,

On April 9, 2019, representatives from the City of San Pablo, the John Muir Chapter of Trout Unlimited (TU), a 501(c)3 nonprofit organization, and the Contra Costa County Flood Control & Water Conservation District (District) met to discuss a proposed fish passage improvements (retrofit) project in Wildcat Creek. As joint project leads, it is important that the District and TU confirm the project approach and clarify expectations and joint roles and responsibilities. These items are described within this draft letter of understanding. The District is seeking Trout Unlimited's input and ultimately concurrence (via countersignature) with the project intent and distribution of tasks as outlined below.

PURPOSE & SCOPE

The District and the US Army Corps of Engineers (USACE) worked together in the early 1990's to construct the Wildcat Creek Flood Control Project to reduce flood risk and improve economic vitality in the area. The project included a concrete fish ladder structure under the UP Railroad bridge and a sedimentation basin located about 1,000 feet downstream of Rumrill Boulevard. In the late 1990's, the USACE began a Section 1135 Investigation to enhance habitat along the flood control channel and produced a draft report in May 2000, prepared by The Waterway Experiments Section (WES Study Report), which identified measures to improve fish passage through the sedimentation basin and concrete channel.

In 2014, Northwest Hydraulic Consultants (nhc) prepared a report for USACE developing alternatives based on the WES Study Report and recommending a preferred alternative that was least costly and met the project criteria including those set by NOAA and CDFW for fish passage. The preferred alternative included replacing the existing fish ladder structure with a new nature-like fish passage, and new dyke structures within an expanded sediment basin.

The District and TU now wish to apply, subject to approval by the Board of Supervisors (BOS), for an Urban Streams Restoration Program grant (grant) under the Department of Water Resources' Riverine Stewardship Program to fund the development of construction documents for the preferred retrofit alternative, including preparing 100% PS&E and obtaining related environmental clearances and regulatory permits. Additionally, as requested by the City of San Pablo the grant will include a modification to an existing weir structure in Wildcat Creek at the upstream limit of the USACE project to provide better flow conditions to a nearby storm drain outfall and reduce flood risk to the surrounding area. The grant will also include other community access and recreational enhancements.

ROLES & RESPONSIBILITIES

The District agrees to perform the following tasks upon seeking and obtaining authorization from the BOS:

Trout Unlimited-Wildcat Creek Fish Ladder Retrofit - **Letter of Understanding** May 9, 2019
Page 2

- Act as the project Local Sponsor.
- Prepare and submit the grant application.
- Manage and administer the grant and fiscal reporting.
- Provide post-award project management.
- Solicit proposals and hire design consultants.
- Administer a professional services contract for preparing construction documents.
- Act as lead agency for CEQA and regulatory permits.
- Seek additional grant funding for the project implementation.

TU agrees to perform the following tasks upon the District's obtaining authorization from the BOS:

- Assist the District with the grant application.
- Seek support from other interested community partners.
- Assist the District with tasks related to grant management and administration.
- Assist the District with post-award project management.
- Provide design review comments and feedback.
- Assist the District with CEQA and regulatory permits.
- Seek additional grant funding for the project implementation.
- Provide pre and post project biological monitoring, including fish surveys.
- Provide operational assessment of the fish passage structure.
- Lead public outreach efforts, including conducting tours of the site.
- Raise public awareness and publicize the project in newsletters and social media outlets.

FINANCIAL RESPONSIBILITIES

The District and TU will be each responsible for the implementation of their respective pre-award and post-award tasks as listed above. TU will use volunteer resources to perform its tasks. TU will not be responsible for providing direct financial assistance.

Please indicate your concurrence with the above stated intent, roles and responsibilities by your countersignature below. If you have any questions on any of the items outlined above, please contact Gus Amirzehni at (925) 313-2128.

Sincerely, Im Jenn

Tim Jensen

Assistant Chief Engineer

Contra Costa County Flood Control

& Water Conservation District

Peter Mangarella Trout Unlimited

Peter Mongarella

TJ:GA

G:\fldct\\Watershed Planning - Engineering\Zone 7 - Wildcat Creek\Fish_Ladder_Retrofit\LOU_09May19_final.docx

 Steve Kowalewski, Deputy Chief Engineer Paul Detjens, Flood Control

EXHIBIT F – LOCAL PROJECT AND FUNDING PARTNERS

Grantee has assigned the roles of the participating agencies or groups identified in Exhibit A "Work Plan"

Example

Project Role	Sponsor	Cosponsor
Fiscal Agent	х	
Project Management	х	Х
Monitoring and Operations	Х	Х
Design	Х	Х
Public Outreach	х	х
Permitting	Х	Х

EXHIBIT G – PROJECT LOCATION

Project Boundary—Grantee shall provide the State with a polygon that describes the geographic extent of the project. The polygon should be created and submitted electronically using GIS software (i.e. as a Google Earth .kmz file or ArcMap shapefile) and should accurately and completely define the project area. The boundary polygon should include enough vertices to accurately describe the project area as described in Exhibit J (GIS files). Project boundary shall be submitted with the first Quarterly Progress Report.

If needed, provide a description of the project location including overlying jurisdiction (City, County, State, or Federal land), Assessor Parcel Numbers, property addresses, legal descriptions, and Latitude/Longitude of project site.

If submission is on paper:

Project Boundary—Grantee shall provide a map that clearly shows the geographic extent of the project. The project boundary should be depicted by a thick border and the corners of the project should be labeled with their respective latitude and longitude (global coordinates). The boundary should include enough vertices to accurately and completely describe the project area.

EXHIBIT H – STANDARD CONDITIONS

ACCOUNTING AND DEPOSIT OF FUNDING DISBURSEMENT:

- A. Separate Accounting of Funding Disbursements: Grantee shall account for the money disbursed pursuant to this Grant Agreement separately from all other Grantee funds. Grantee shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. Grantee shall keep complete and accurate records of all receipts and disbursements on expenditures of such funds. Grantee shall require its contractors or subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by State at any and all reasonable times.
- B. Disposition of Money Disbursed: All money disbursed pursuant to this Grant Agreement shall be deposited in a non-interest bearing account, administered, and accounted for pursuant to the provisions of applicable law.
- C. Remittance of Unexpended Funds: Grantee shall remit to State any unexpended funds that were disbursed to Grantee under this Grant agreement and were not used to pay Eligible Project Costs within a period of sixty (60) calendar days from the final disbursement from State to Grantee of funds or, within thirty (30) calendar days of the expiration of the Grant Agreement, whichever comes first.
- 2. ACKNOWLEDGEMENT OF CREDIT AND SIGNAGE: Grantee shall include appropriate acknowledgement of credit to the State for its support when promoting the Project or using any data and/or information developed under this Grant Agreement. Signage shall be posted in a prominent location at Project site(s) (if applicable) or at the Grantee's headquarters and shall include the Department of Water Resources color logo and the following disclosure statement: "Funding for this project has been provided in full or in part from the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for all Act of 2018 (Proposition 68) and through an agreement with the State Department of Water Resources." The Grantee shall also include in each of its contracts for work under this Agreement and a provision that incorporates the requirements stated within this Paragraph.

A. Types of Signs:

- i. Sign posted during construction: Recommended minimum size of 4.5 feet X 7.5 feet. If a permanent sign will be placed upon completion of Project, construction sign may be constructed of less permanent material.
- ii. Sign posted upon completion: Grantee is required to post a sign at the Project site. The sign must be installed for the final inspection of the Project. There is no minimum size other than the minimum size for the logo and includes the required language.
- iii. Grantee is required to post a sign at the Project site. The sign must be installed for the final inspection of the Project. There is no minimum size other than the minimum size for the logo and includes the required language.

Example:



Project Title



Description

Funding for this project has been provided by Proposition 68 through the California Resources Agency and California Department of Water Resources to improve River Parkways and Urban Streams

GAVIN NEWSOM, GOVERNOR

Wade Crowfoot, Secretary for Natural Resources Agency
Karla Nemeth, Director, California Department of Water Resources
California Drought, Water, Park, Climate, Coastal Protection, and Outdoor Access for All Act of 2018

- B. Sign Construction: All materials used for permanent sign shall be durable and resistant to elements and graffiti
- C. Sign Duration: Project sign must be in place for a minimum of four (4) years from the date of project completion.
- D. For projects where the required sign may be infeasible Grantee shall consult with the State's Grant Manager regarding an appropriate alternative.

State Approval: Grantee shall submit proposed location(s), size, number of signs and language for review prior to ordering signs. Failure to obtain prior approval of signage will result in signage costs no being reimbursed with grant funds or counting as required Cost Share.

- 3. <u>AMENDMENT</u>: This Grant Agreement may be amended at any time by mutual agreement of the Parties, except insofar as any proposed amendments are in any way contrary to applicable law. Requests by the Grantee for amendments must be in writing stating the amendment request and the reason for the request. Requests solely for a time extension must be submitted at least 90 days prior to the work completion date set forth in Paragraph 2. Any other request for an amendment must be submitted at least 180 days prior to the work completion date set forth in Paragraph 2. State shall have no obligation to agree to an amendment.
- 4. <u>AMERICANS WITH DISABILITIES ACT</u>: By signing this Grant agreement, Grantee assures State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. § 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.
- 5. <u>AUDITS</u>: State reserves the right to conduct an audit at any time between the execution of this Grant Agreement and the completion of the Project, with the costs of such audit borne by State. After completion of the Project, State may require Grantee to conduct a final audit to State's specifications, at Grantee's expense, such audit to be conducted by and a report prepared by an independent Certified Public Accountant. Failure or refusal by Grantee to comply with this provision shall be considered a breach of this Grant Agreement, and State may elect to pursue any remedies provided in Paragraph 11 or take any other action it deems necessary to protect its interests. The Grantee agrees it shall return any audit disallowances to the State.

Pursuant to Government Code section 8546.7, the Grantee shall be subject to the examination and audit by the State for a period of three (3) years after final payment under this Grant Agreement with respect of all matters connected with this Grant Agreement, including but not

limited to, the cost of administering this Grant Agreement. All records of Grantee or its contractor or subcontractors shall be preserved for this purpose for at least three (3) years after receipt of the final disbursement under this Agreement. If an audit reveals any impropriety, the Bureau of State Audits or the State Controller's Office may conduct a full audit of any or all of the Grantee's activities. (Pub. Resources Code, § 80012, subd. (b).)

- 6. <u>BUDGET CONTINGENCY:</u> If the Budget Act of the current year covered under this Grant Agreement does not appropriate sufficient funds for this program, this Grant Agreement shall be of no force and effect. This provision shall be construed as a condition precedent to the obligation of State to make any payments under this Grant Agreement. In this event, State shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Grant Agreement and Grantee shall not be obligated to perform any provisions of this Grant Agreement. Nothing in this Grant Agreement shall be construed to provide Grantee with a right of priority for payment over any other Grantee. If funding for any fiscal year after the current year covered by this Grant Agreement is reduced or deleted by the Budget Act, by Executive Order, or by order of the Department of Finance, the State shall have the option to either cancel this Grant Agreement with no liability occurring to State, or offer a Grant Agreement amendment to Grantee to reflect the reduced amount.
- 7. <u>CALIFORNIA CONSERVATION CORPS:</u> Grantee may use the services of the California Conservation Corps or other community conservation corps as defined in Public Resources Code section 14507.5.
- 8. CEQA: Activities funded under this Grant Agreement, regardless of funding source, must be in compliance with the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21000 et seq.) Any work that is subject to CEQA and funded under this Agreement shall not proceed until documents that satisfy the CEQA process are received by the State's Project Manager and the State has completed its CEQA compliance. Work funded under this Agreement that is subject to a CEQA document shall not proceed until and unless approved by the Department of Water Resources. Such approval is fully discretionary and shall constitute a condition precedent to any work for which it is required. If CEQA compliance by the Grantee is not complete at the time the State signs this Agreement, once State has considered the environmental documents, it may decide to require changes, alterations, or other mitigation to the Project; or to not fund the Project. Should the State decide to not fund the Project, this Agreement shall be terminated in accordance with Paragraph 9 "Default Provisions".

Applicants seeking Proposition 84 funding should note that Public Resources Code section 75102 requires lead agencies to notify tribal entities prior to adoption of Negative Declarations or Environmental Impact Reports (EIRs) if traditional tribal lands are within the area of the Project.

- 9. <u>CHILD SUPPORT COMPLIANCE ACT:</u> The Grantee acknowledges in accordance with Public Contract Code section 7110, that:
 - A. The Grantee recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Family Code section 5200 et seq.; and
 - B. The Grantee, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 10. <u>CLAIMS DISPUTE:</u> Any claim that the Grantee may have regarding performance of this Agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the DWR Project Representative, within thirty (30) days of the

Grantee's knowledge of the claim. State and Grantee shall then attempt to negotiate a resolution of such claim and process an amendment to this Agreement to implement the terms of any such resolution.

- 11. COMPETITIVE BIDDING AND PROCUREMENTS: Grantee's contracts with other entities for the acquisition of goods and services and construction of public works with funds provided by State under this Grant Agreement must be in writing and shall comply with all applicable laws and regulations regarding the securing of competitive bids and undertaking competitive negotiations. If the Grantee does not have a written policy to award contracts through a competitive bidding or sole source process, the Department of General Services' State Contracting Manual rules must be followed and are available at:

 https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/State-Contracting.
- 12. <u>COMPUTER SOFTWARE:</u> Grantee certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Grant Agreement for the acquisition, operation, or maintenance of computer software in violation of copyright laws.
- 13. CONFLICT OF INTEREST: All participants are subject to State and Federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Applicable statutes include, but are not limited to, Government Code section 1090 and Public Contract Code sections 10410 and 10411, for State conflict of interest requirements.
 - A. Current State Employees: No State officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency, unless the employment, activity, or enterprise is required as a condition of regular State employment. No State officer or employee shall contract on his or her own behalf as an independent contractor with any State agency to provide goods or services.
 - B. Former State Employees: For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency. For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving State service.
 - C. Employees of the Grantee: Employees of the Grantee shall comply with all applicable provisions of law pertaining to conflicts of interest, including but not limited to any applicable conflict of interest provisions of the California Political Reform Act. (Gov. Code, § 87100 et seq.)
 - D. Employees and Consultants to the Grantee: Individuals working on behalf of a Grantee may be required by the Department to file a Statement of Economic Interests (Fair Political Practices Commission Form 700) if it is determined that an individual is a consultant for Political Reform Act purposes.
- 14. <u>DELIVERY OF INFORMATION, REPORTS, AND DATA:</u> Grantee agrees to expeditiously provide throughout the term of this Grant Agreement, such reports, data, information, and certifications as may be reasonably required by State.

- 15. <u>DISPOSITION OF EQUIPMENT:</u> Grantee shall provide to State, not less than 30 calendar days prior to submission of the final invoice, an itemized inventory of equipment purchased with funds provided by State. The inventory shall include all items with a current estimated fair market value of more than \$5,000.00 per item. Within 60 calendar days of receipt of such inventory State shall provide Grantee with a list of the items on the inventory to which the State will take title. All other items shall become the property of Grantee. State shall arrange for delivery from Grantee of items that it intends to take title. Cost of transportation, if any, shall be borne by State.
- 16. <u>DRUG-FREE WORKPLACE CERTIFICATION:</u> Certification of Compliance: By signing this Grant Agreement, Grantee, its contractors or subcontractors hereby certify, under penalty of perjury under the laws of State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Gov. Code, § 8350 et seq.) and have or will provide a drug-free workplace by taking the following actions:
 - A. Publish a statement notifying employees, contractors, and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors, or subcontractors for violations, as required by Government Code section 8355.
 - B. Establish a Drug-Free Awareness Program, as required by Government Code section 8355 to inform employees, contractors, or subcontractors about all of the following:
 - i. The dangers of drug abuse in the workplace,
 - ii. Grantee 's policy of maintaining a drug-free workplace,
 - iii. Any available counseling, rehabilitation, and employee assistance programs, and
 - iv. Penalties that may be imposed upon employees, contractors, and subcontractors for drug abuse violations.
 - C. Provide, as required by Government Code section 8355, that every employee, contractor, and/or subcontractor who works under this Grant Agreement:
 - i. Will receive a copy of Grantee's drug-free policy statement, and
 - ii. Will agree to abide by terms of Grantee's condition of employment, contract or subcontract.
- 17. <u>EASEMENTS:</u> Where the Grantee acquires property in fee title or funds improvements to real property already owned in fee by the Grantee using State funds provided through this Grant Agreement, an appropriate easement or other title restriction providing for floodplain preservation and agricultural and/or wildlife habitat conservation for the subject property in perpetuity, approved by the State, shall be conveyed to a regulatory or trustee agency or conservation group acceptable to the State. The easement or other title restriction must be in first position ahead of any recorded mortgage or lien on the property unless this requirement is waived by the State.
 - Where the Grantee acquires an easement under this Agreement, the Grantee agrees to monitor and enforce the terms of the easement, unless the easement is subsequently transferred to another land management or conservation organization or entity with State permission, at which time monitoring and enforcement responsibilities will transfer to the new easement owner. Failure to provide an easement acceptable to the State may result in termination of this Agreement.
- 18. <u>FINAL INSPECTIONS AND CERTIFICATION OF REGISTERED CIVIL ENGINEER:</u> Upon completion of the Project, Grantee shall provide for a final inspection and certification by a California Registered Civil Engineer that the Project has been completed in accordance with

submitted final plans and specifications and any modifications thereto and in accordance with this Grant agreement.

- 19. GRANTEE'S RESPONSIBILITIES: Grantee and its representatives shall:
 - A. Faithfully and expeditiously perform or cause to be performed all project work as described in Exhibit A "Work Plan" and Exhibit D "Monitoring and Maintenance Plan" and in accordance with Project Exhibit B "Budget" and Exhibit C "Schedule".
 - B. Accept and agree to comply with all terms, provisions, conditions, and written commitments of this Grant Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and statements made by Grantee in the application, documents, amendments, and communications filed in support of its request for funding.
 - C. Comply with all applicable California, federal, and local laws and regulations.
 - D. Implement the Project in accordance with applicable provisions of the law.
 - E. Fulfill its obligations under the Grant Agreement and be responsible for the performance of the Project.
 - F. Obtain any and all permits, licenses, and approvals required for performing any work under this Grant Agreement, including those necessary to perform design, construction, or operation and maintenance of the Project. Grantee shall provide copies of permits and approvals to State.
 - G. Be solely responsible for design, construction, and operation and maintenance of the Projects. Review or approval of plans, specifications, bid documents, or other construction documents by State is solely for the purpose of proper administration of funds by State and shall not be deemed to relieve or restrict responsibilities of Grantee under this Agreement.
 - H. Be solely responsible for all work and for persons or entities engaged in work performed pursuant to this Agreement, including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The Grantee shall be responsible for any and all disputes arising out of its contracts for work on the Project, including but not limited to payment disputes with contractors and subcontractors. The State will not mediate disputes between the Grantee and any other entity concerning responsibility for performance of work.
- 20. <u>GOVERNING LAW:</u> This Grant agreement is governed by and shall be interpreted in accordance with the laws of the State of California.
- 21. <u>INCOME RESTRICTIONS:</u> The Grantee agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Grantee under this Agreement shall be paid by the Grantee to the State, to the extent that they are properly allocable to costs for which the Grantee has been reimbursed by the State under this Agreement. The Grantee shall also include in each of its contracts for work under this Agreement a provision that incorporates the requirements stated within this Paragraph.
- 22. <u>INDEMNIFICATION:</u> Grantee shall indemnify and hold and save the State, its officers, agents, and employees, free and harmless from any and all liabilities for any claims and damages (including inverse condemnation) that may arise out of the Project and this Agreement, including, but not limited to, any claims or damages arising from planning, design, construction, maintenance and/or operation of this Project and any breach of this Agreement. Grantee shall require its contractors or subcontractors to name the State, its officers, agents and employees as additional insureds on their liability insurance for activities undertaken pursuant to this Agreement.

- 23. <u>INDEPENDENT CAPACITY:</u> Grantee, and the agents and employees of Grantee, in the performance of the Grant Agreement, shall act in an independent capacity and not as officers, employees, or agents of the State.
- 24. <u>INSPECTION OF BOOKS, RECORDS, AND REPORTS:</u> During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this Grant agreement or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Grant Agreement. Failure or refusal by Grantee to comply with this provision shall be considered a breach of this Grant agreement, and State may withhold disbursements to Grantee or take any other action it deems necessary to protect its interests.
- 25. <u>INSPECTIONS OF PROJECT BY STATE:</u> State shall have the right to inspect the work being performed at any and all reasonable times during the term of the Grant Agreement. This right shall extend to any subcontracts, and Grantee shall include provisions ensuring such access in all its contracts or subcontracts entered into pursuant to its Grant Agreement with State.
- 26. LABOR CODE COMPLIANCE: The Grantee agrees to be bound by all the provisions of the Labor Code regarding prevailing wages and shall monitor all contracts subject to reimbursement from this Agreement to assure that the prevailing wage provisions of the Labor Code are being met. Current Department of Industrial Relations (DIR) requirements may be found at: http://www.dir.ca.gov/lcp.asp. For more information, please refer to DIR's *Public Works Manual* at: http://www.dir.ca.gov/lcp.asp. For more information, please refer to DIR's *Public Works Manual* at: http://www.dir.ca.gov/lcp.asp. For more information, please refer to DIR's *Public Works Manual* at: http://www.dir.ca.gov/dlse/PWManualCombined.pdf. The Grantee affirms that it is aware of the provisions of section 3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance, and the Grantee affirms that it will comply with such provisions before commencing the performance of the work under this Agreement and will make its contractors and subcontractors aware of this provision.
- 27. MODIFICATION OF OVERALL WORK PLAN: At the request of the Grantee, the State may at its sole discretion approve non-material changes to the portions of Exhibits A "Work Plan" B "Budget", C "Schedule" and D "Monitoring and Maintenance Plan" without formally amending this Grant Agreement. Non-material changes with respect to the Work Plan and Monitoring and Maintenance Plan are changes that do not change the substantive circumstances (e.g., competitiveness) by which the Project was awarded grant funds. Non-material changes with respect to the budget are changes that only result in reallocation of the budget and will not result in an increase in the amount of the State Grant Agreement. Non-material changes with respect to the Project schedule are changes that will not extend the term of this Grant Agreement. Requests for non-material changes to the budget and schedule must be submitted by the Grantee to the State in writing and are not effective unless and until specifically approved by the State's Program Manager in writing.
- 28. NONDISCRIMINATION: During the performance of this Grant Agreement, Grantee and its contractors or subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, gender identity, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), marital or domestic partner status, and denial of medial and family care leave or pregnancy disability leave.

 Grantee and its contractors or subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and its contractors or subcontractors shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code, § 12990.) and the applicable

regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 11000 et seq.). The applicable regulations of the Fair Employment and Housing are incorporated into this Agreement by reference. Grantee and its contractors or 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 Grant Agreement.

- 29. <u>OPINIONS AND DETERMINATIONS:</u> Where the terms of this Grant Agreement provide for action to be based upon, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.
- 30. <u>PERFORMANCE BOND:</u> Where contractors are used, the Grantee shall not authorize construction to begin until each contractor has furnished a performance bond in favor of the Grantee in the following amounts: faithful performance (100%) of contract value, and labor and materials (100%) of contract value. This requirement shall not apply to any contract for less than \$25,000.00. Any bond issued pursuant to this paragraph must be issued by a California-admitted surety. (Pub. Contract Code, § 7103; Code Civ. Proc., § 995.311.)
- 31. <u>PRIORITY HIRING CONSIDERATIONS:</u> If this Grant Agreement includes services in excess of \$200,000, the Grantee shall give priority consideration in filling vacancies in positions funded by the Grant Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with Public Contract Code section 10353.
- 32. PROHIBITION AGAINST DISPOSAL OF PROJECT WITHOUT STATE PERMISSION: The Grantee shall not sell, abandon, lease, transfer, exchange, mortgage, hypothecate, or encumber in any manner whatsoever all or any portion of any real or other property necessarily connected or used in conjunction with the Project, or with Grantee's service of water, without prior permission of State. Grantee shall not take any action, including but not limited to actions relating to user fees, charges, and assessments that could adversely affect the ability of Grantee meet its obligations under this Grant Agreement, without prior written permission of State. State may require that the proceeds from the disposition of any real or personal property be remitted to State.
- 33. <u>PROJECT ACCESS:</u> The Grantee shall ensure that the State, the Governor of the State, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times during Project construction and thereafter for the term of this Agreement.
- 34. <u>REMAINING BALANCE:</u> In the event the Grantee does not submit invoices requesting all of the funds encumbered under this Grant Agreement, any remaining funds revert to the State. The State will notify the Grantee stating that the Project file is closed and any remaining balance will be disencumbered and unavailable for further use under this Grant Agreement.
- 35. <u>REMEDIES NOT EXCLUSIVE:</u> The use by either party of any remedy specified herein for the enforcement of this Grant agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.
- 36. <u>RETENTION:</u> The State shall withhold ten percent (10%) of the funds requested by the Grantee for reimbursement of Eligible Project Costs until the Project is completed and Grantee has met requirements of Paragraph 18, "Submissions of Reports." Any retained amounts due to the Grantee will be promptly disbursed to the Grantee, without interest, upon completion of the Project.
- 37. <u>RIGHTS IN DATA:</u> Grantee agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, web content, and other written or graphic work produced in the performance of this Grant agreement shall be made available to the State and

shall be in the public domain to the extent to which release of such materials is required under the California Public Records Act. (Gov. Code, § 6250 et seq.) Grantee may disclose, disseminate and use in whole or in part, any final form data and information received, collected and developed under this Grant agreement, subject to appropriate acknowledgement of credit to State for financial support. Grantee shall not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so. The State shall have the right to use any data described in this paragraph for any public purpose.

- 38. <u>SEVERABILITY:</u> Should any portion of this Grant Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Grant Agreement shall continue as modified.
- 39. <u>SUSPENSION OF PAYMENTS:</u> This Grant Agreement may be subject to suspension of payments or termination, or both if the State determines that:
 - A. Grantee, its contractors, or subcontractors have made a false certification, or
 - B. Grantee, its contractors, or subcontractors violates the certification by failing to carry out the requirements noted in this Grant agreement.
- 40. <u>SUCCESSORS AND ASSIGNS:</u> This Grant Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties. No assignment or transfer of this Grant Agreement or any part thereof, rights hereunder, or interest herein by the Grantee shall be valid unless and until it is approved by State and made subject to such reasonable terms and conditions as State may impose.
- 41. <u>TERMINATION BY GRANTEE:</u> Subject to State approval which may be reasonably withheld, Grantee may terminate this Agreement and be relieved of contractual obligations. In doing so, Grantee must provide a reason(s) for termination. Grantee must submit all progress reports summarizing accomplishments up until termination date.
- 42. <u>TERMINATION FOR CAUSE:</u> Subject to the right to cure under Paragraph 9 "Default Provisions", the State may terminate this Grant Agreement and be relieved of any payments should Grantee fail to perform the requirements of this Grant Agreement at the time and in the manner herein, provided including but not limited to reasons of default under Paragraph 9
- 43. <u>TERMINATION WITHOUT CAUSE:</u> The State may terminate this Agreement without cause on 30 days' advance written notice. The Grantee shall be reimbursed for all reasonable expenses incurred up to the date of termination.
- 44. <u>THIRD PARTY BENEFICIARIES:</u> The parties to this Agreement do not intend to create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or any duty, covenant, obligation or understanding established herein.
- 45. <u>TIMELINESS:</u> Time is of the essence in this Grant Agreement.
- 46. TRAVEL: Travel includes the reasonable and necessary costs of transportation, subsistence, and other associated costs incurred by personnel during the term of this Funding Agreement. Any reimbursement for necessary travel and per diem shall be at rates not to exceed those set by the California Department of Human Resources. These rates may be found at:

 http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx
 Reimbursement will be at the State travel and per diem amounts that are current as of the date costs are incurred. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State.
- 47. <u>UNION ORGANIZING:</u> Grantee, by signing this Grant Agreement, hereby acknowledges the applicability of Government Code sections 16645 through 16649 to this Grant Agreement. Furthermore, Grantee, by signing this Grant Agreement, hereby certifies that:

- A. No State funds disbursed by this Grant Agreement will be used to assist, promote, or deter union organizing.
- B. Grantee shall account for State funds disbursed for a specific expenditure by this Grant Agreement to show those funds were allocated to that expenditure.
- C. Grantee shall, where State funds are not designated as described in (b) above, allocate, on a pro rata basis, all disbursements that support the program.
- D. 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.
- 48. <u>VENUE:</u> The State and the Grantee hereby agree that any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California, or in the United States District Court in and for the Eastern District of California. The Grantee hereby waives any existing sovereign immunity for the purposes of this Agreement.
- 49. <u>WAIVER OF RIGHTS:</u> None of the provisions of this Grant agreement shall be deemed waived unless expressly waived in writing. It is the intention of the parties here to that from time to time either party may waive any of its rights under this Grant Agreement unless contrary to law. Any waiver by either party of rights arising in connection with the Grant Agreement shall not be deemed to be a waiver with respect to any other rights or matters, and such provisions shall continue in full force and effect.

EXHIBIT I – REPORT FORMATS AND REQUIREMENTS REPORT FORMATS AND REQUIREMENTS

The following reporting formats should be used. Please obtain State approval prior to submitting a report in an alternative format.

1. INITIAL KICKOFF MEETING

In partnership, the Sponsor, Cosponsor and State shall meet to discuss expectations and schedule of deliverables. State will conduct an initial site visit at project location.

2. QUARTERLY PROGRESS REPORTS

The Sponsor shall submit Quarterly Progress Reports on a consistent basis using the State template provided to meet the State's requirement for disbursement of funds. Quarterly Progress Report shall be submitted no later than 15 days after the end of the corresponding quarter. The quarterly progress report should describe the work performed during the reporting period. The 4th quarter report shall contain a summary of the overall progress for the year.

Quarterly Progress Reports shall, in part, provide a brief description of the work performed, the Sponsor and Cosponsor's activities, milestones achieved, any accomplishments and any problems encountered in the performance of the work under this Grant Agreement during the reporting period.

PROJECT STATUS

Describe the work performed during the time period covered by the report, including but not limited to:

PROJECT INFORMATION

- Legal matters.
- Additions or changes to project partners or roles as reported in Exhibit F "Local Project and Funding Partners".
- Project Status, includes an estimate the percentage completion of the overall project
- Project Objectives Status, which identifies any changes to the quantities of proposed habitat targets (i.e. 1,000 LF riparian habitat creation), flood/erosion control treatments (i.e. 20 feet of stream daylighting, 500 LF of streambank erosion control/bank stabilization), and other quantifiable objectives proposed in the grant application.
- Engineering Design Status, including engineering evaluations, level or % of design reached, status of State's approval of each, and an estimate for when you will request State's design review.
- Environmental Document and Permit Planning Status, including a list of compliance and permitting deliverables and dates of completion, receipt, or an estimated date of completion.
- Property Access Status, including easements, rights-of-way, rights of entry and related approvals.
- Major accomplishments during the quarter (i.e. tasks completed, milestones met, meetings held or attended, press releases, etc.).
- Describe differences between the work performed and the work outlined in the Overall Work Plan, including change orders

- Identify key issues/concerns that need to be resolved, including those that have, will, or could affect the schedule or budget, with a recommendation on how to correct the matter.
- Photos documenting progress

COST INFORMATION

- Provide a list showing all project costs incurred during the quarter covered by the report by the Grantee and each contractor working on the project and which of these costs are Eligible Project Costs
- State if the project is on budget and discuss how the budget is progressing in comparison to the project budget included in the Overall Work Plan.
- A list of any changes approved to the budget during the quarter in accordance with Grant agreement and a revised budget, by task, if changed from latest budget in the Overall Work Plan
- State if there have been any changes to the Grantee's finance plan for payment of their share of Eligible Project Costs.

SCHEDULE INFORMATION

- A snapshot of the most recent approved schedule.
- A schedule showing actual progress verses planned progress
- A discussion on how the actual schedule is progressing in comparison to the original or last reported schedule

ANTICIPATED ACTIVITIES NEXT QUARTER

Provide a list and description of anticipated activities for the next quarterly reporting period. NEWSLETTER/BLOG ARTICLE

- Once a quarter Grantee will provide a half page article that we would use for blogs or newsletter
- Include related picture(s)

FOURTH QUARTER ANNUAL REPORTING

 Grantee shall provide either written report or presentation, per direction from the State and provided to Grantee 6 months prior to deadline.

3. FINAL REPORT

The Final Report shall generally use the following format.

<u>EXECUTIVE SUMMARY</u> – A brief summary of the following items:

- The original project purpose, goals, and objectives.
- Changes made to the proposed concepts based on new information gained during the project.
- Project successes, including how the project improved/will improve conditions and repaired problems at the site and in the watershed.
- A description of concerns for managing the site in a watershed context for the next 20 years.
- Any additional information that would help inform future similar projects.

<u>PROJECT INFORMATION</u> – Narratives and lists to account for the following:

- Pre-project conditions at the site and in general within the watershed, including any problems that the project was proposed to- and ultimately designed to address.
- Description of work proposed in the original USRP Grant application and as completed to address the problems described above, including the restoration techniques, engineering solutions, and any deviations from the work plan identified in the Grant agreement.
- Post-project conditions at the site and surrounding landscape upon completion and as anticipated when plantings and installed habits will be fully established.
- List any official amendments to the Agreement and minor changes to the scope, budget, and timeline with a date and short description of the reason for each change.

ANALYSIS, SUSTAINABILITY, AND LONG-TERM MANAGEMENT - Provide the following:

- An analysis of the techniques used to treat the aforementioned problems at the project site and in the watershed.
- If applicable, describe the findings of any study and whether the study determined the
 engineering, hydrologic, hydrogeological, environmental, economic, and financial feasibility
 of the project.
- A description of the extent of community involvement in the project and contributions to its long-term sustainability.
- Describe how the project was designed or changed to improve sustainability and minimize long-term management needs.
- Summarize the long-term monitoring and maintenance plans and responsible entities.
- Photographs of the site prior to, during, and after construction to document pre-existing problems and the change in project site conditions.

REPORTS AND PRODUCTS – Provide the following:

- Photographs of restoration techniques and activities; and community participation (i.e. design charrettes, community meetings, site tours, volunteer workers) if part of the project.
- Copy of any final technical report or study produced for this project.
- Electronic copies of any data collected.
- Copy of final Monitoring and Maintenance Plan for this project.
- Provide a map and shapefile(s) showing the location of the completed project. A description
 of the geographic projection and datum used for the shapefile must be submitted with the
 shapefile; (e.g. NAD '83 datum and either a UTM 10 or UTM 11 projection, dependent on
 the project's location)
- As-built drawings.
- For projects involving a modeling component, Grantee shall provide the major input data files, parameters, calibration statistics, and output files.
- Self-Certification that the Project meets the stated goal of the Grant agreement (e.g. 100-year level of flood protection, HMP standard, PI-84-99, etc.)
- Photographs on-site before, during and after implementation to document project conditions. Specific geographic positions through maps and/or GPS readings of where the photos were taken (photo-points), so images can be produced from the same vantage point in subsequent years to document long-term vegetation growth, channel formation, and geomorphic response to bankfull and flood flows.

- Discussion of problems that occurred during the work and how those problems were resolved
- Include specific geographic positions through mapped photo points and/or GPS readings, so images can be produced from the same vantage point in subsequent years to document changes in vegetative cover and diversity and the geomorphic response to bankfull and flood flows.
- A final project schedule showing actual progress versus planned progress

<u>COSTS AND DISPOSITION OF FUNDS</u> – A summary table of invoices showing:

- The date each invoice was submitted to State
- The amount of the invoice
- The date the check was received
- The amount of the check (If a check has not been received for the final invoice, then state this in this section.)
- A summary of the payments made by the Grantee for meeting its cost sharing obligations under this Grant Agreement.
- A spreadsheet summary of the original project budget by task versus the final project costs.

<u>ADDITIONAL INFORMATION</u> – Any relevant additional information should be included.

- A final project schedule showing actual progress, and a discussion of any variances from the original schedule.
- Certification from a California Registered Civil Engineer that the project was conducted in accordance with the approved Work Plan and any approved modifications thereto.
- Submittal schedule for Monitoring Reports prepared after the end of the grant period and an outline of the proposed reporting format.

Status of performance measures

Progress Report Template

	Progress Report #		01		
	Reporting Period:	00/00/202X	to	00/00/202X	
	Submittal Date	00/00/202X			
Grant Agreement No.:	#4600011167				
Project Name:					

SponsorName:		
Cosponser Name		
Project Manager:	I	
	Printed Name	Signature

PROJECT INFORMATION

TASK #	SUMMARY OF ACTIVITIES (example of activities to be added)	ITEM FOR REVIEW (YES/NO)	% OF WORK COMPLETE	DATE SUBMITTED
1	Project Management			
	Quarterly & Final Report Preparation			
	Contracting and Subcontractor Management			
	Project Coordination and Communication			
	Monitoring and Maintenance Plan			
	Boundary of the Project location			
	Copy of grant acknowledgement sign			
2	Fish Ladder and Sediment Basin Retrofit Design			
	Technical Studies, Surveys and Assessments			
	Fish Ladder Retrofit Design			
	Channel Modification and Flood Mitigation Design			
	Hydrologic and Hydraulic Modeling Technical Memorandum			
	Geotechnical Report			

	Sedimentation Technical Memorandum		
	Alternatives Development Report		
	Basis of Design Report		
	70% Design Plans, Specifications, and Estimates		
	90% Design Plans, Specifications, and Estimates		
	Final 100% Design Plans, Specifications, and Estimates		
3	Community Outreach and Engagement		
	Develop Community Outreach and Engagement Effort		
	Workdays		
	Informational Tours		
	Educational Benefits		
	Conduct Design Charettes and Community Meetings		
	Develop Community Benefits Plan		
	Design Plans for Amenities and Interpretive Features		
4	Permitting and CEQA compliance		
	CEQA documentation		
	Permit applications		
	Environmental surveys and reports		
	Final permits		

Task 1 - Project Management

Task 2 - Fish Ladder and Sediment Basin Retrofit Design

Task 3 – Community Outreach and Engagement

Task 4 – Permitting and CEQA Compliance

SCHEDULE INFORMATION

ANTICIPATED ACTIVITIES NEXT QUARTER

For the next quarterly reporting period we will:

EXHIBIT J - REQUIREMENTS FOR DATA SUBMITTAL

ELECTRONIC REPORT FORMATTING

Grantee agrees that reporting work funded under this Grant Agreement will be provided in an electronic format to State. Electronic submittal of final reports, plans, studies, data, and other work performed under this grant shall include a final signature with date and be as follows:

- Text preferably in MS WORD or text PDF format.
- Files generally less than 50 MB in size.
- Files named so that the public can determine their content.
- Data files and tables: preferably in MS Excel or appropriate file-type used in data analysis software (e.g. GIS shape files must be in standard ESRI format).

Surface and Groundwater Quality Data:

Groundwater quality and ambient surface water quality monitoring data that include chemical, physical, or biological data shall be submitted to the State as described below, with a narrative description of data submittal activities included in project reports, as described in Exhibit I.

Surface water quality monitoring data shall be prepared for submission to the California Environmental Data Exchange Network (CEDEN). The CEDEN data templates are available on the CEDEN website. Inclusion of additional data elements described on the data templates is desirable. Data ready for submission should be uploaded to your CEDEN Regional Data Center via the CEDEN website. CEDEN website: http://www.ceden.org.

If the Project's Work Plan contains a groundwater ambient monitoring element, groundwater quality monitoring data shall be submitted to the State for inclusion in the State Water Resources Control Board's Groundwater Ambient Monitoring and Assessment (GAMA) Program Information on the Program be obtained can https://www.waterboards.ca.gov/water issues/programs/gama/. If further information is required, the Grantee can contact the State Water Resources Control Board (SWRCB) GAMA Program. A staff SWRCB involved found in the GAMA program can https://www.waterboards.ca.gov/water issues/programs/gama/contact.shtml.

Groundwater Level Data

For a project that collects groundwater level data, Grantee will need to submit this data to DWR's Water Data Library (WDL), with a narrative description of data submittal activities included in project reports, as described in Exhibit I Information regarding the WDL and in what format to submit data in can be found at: http://www.water.ca.gov/waterdatalibrary/.

In the near future, DWR's WDL will be replaced by the California Statewide Groundwater Elevation Monitoring program (CASGEM). Once this Program comes online Grantee will then submit groundwater level data to CASGEM. Information regarding the CASGEM program can be found at: http://www.water.ca.gov/groundwater/casgem/.

To the greatest extend possible, the Grantee shall comply with the requirements of the DWR Spatial Data Standards (Standards). The sections of the Standards that are most relevant to data supplied by grantees include:

All of the following sections: Section 2. Names, Section 4. Projections and Datums, Section 5. Metadata, Section 6. Accessibility and Security Standards Section 9. Names, Section 10. File Organization, Section 11. Vertical Datum for DWR-Created / Improved Data Sets, Section 12. Spatial Data Creation Method Standards and Guidelines, Section 13. Metadata, Section 14. Accuracy, Section 15. Quality Assurance and Quality Control, Section 16. Requirement for DWR Web Maps and Applications Use of Web Atlas, Section 17. Production of Default Service Definition Files, and Section 18. Service Level Metadata.

Grantee will deliver to DWR:

- Electronic copies of all finalized GIS data files, or non-GIS files containing spatial data (such as in Excel worksheets), in any format that was used, including but not limited to shapefiles (all components), geodatabases, coverages, grids, etc. All data, subject to DWR review and approval, shall comply with all aspects of DWR GIS Data Standard. Each data file shall include or be attached to metadata in compliance with the current DWR GIS Metadata Standard. Metadata shall include detailed descriptions of: creation methods, analysis steps, spatial and attribute accuracies/completeness, complete data dictionaries, and any other relevant information that could affect interpretation of applicability of these data toward any potential purpose. All data shall be provided in NAD83/NAVD88 reference datums.
- All other physical or electronic components used to create any printed or electronic product, so that DWR obtains the capability to open and print any document, figure, plate, profile, table or graph included in this task order, and edit them as necessary. These include, but are not limited to: all GIS data files used to produce any map, regardless of the file origin; all finalized GIS document files such as, but not limited to, ESRI ArcMap Document (MXD) files and AutoCAD Drawing Exchange Format (DXF) files); style sheets for all symbology used in any GIS product; any linked or embedded tables, graphics or text that were included in any map layout, all in a form that permits editing; all CADD files, all image files.
- Electronic copies of all source data (including, but not limited to, GIS files) and significant intermediate processing step files used to generate final data files.

EXHIBIT K – STATE AUDIT DOCUMENT REQUIREMENTS AND COST SHARE GUIDELINES FOR GRANTEES

The following provides a list of documents typically required by State Auditors and general guidelines for Grantees. List of documents pertains to both State funding and Grantee's Cost Share and details the documents/records that State Auditors would need to review in the event of this Grant Agreement is audited. Grantees should ensure that such records are maintained for the Project.

State Audit Document Requirements

Internal Controls

- 1. Organization chart (e.g., Agency's overall organization chart and organization chart for the State funded Program/Project).
- 2. Written internal procedures and flowcharts for the following:
 - a) Receipts and deposits
 - b) Disbursements
 - c) State reimbursement requests
 - d) Expenditure tracking of State funds
 - e) Guidelines, policy, and procedures on State-funded Program/Project
- 3. Audit reports of the Agency internal control structure and/or financial statements within the last two years.
- 4. Prior audit reports on the State-funded Program/Project.

State Funding:

- 1. Original Grant Agreement, any amendment(s) and budget modification documents.
- 2. A listing of all bond-funded grants, loans, or subventions received from the State.
- 3. A listing of all other funding sources for each Program/Project.

Contracts:

- 1. All subcontractor and consultant contracts and related or partners' documents, if applicable.
- 2. Contracts between the Agency and member agencies as related to the State-funded Program/Project.

Invoices:

- 1. Invoices from vendors and subcontractors for expenditures submitted to the State for payments under the Grant Agreement.
- 2. Documentation linking subcontractor invoices to State reimbursement, requests and related Grant Agreement budget line items.
- 3. Reimbursement requests submitted to the State for the Grant agreement.

Cash Documents:

- Receipts (copies of warrants) showing payments received from the State.
- 2. Deposit slips (or bank statements) showing deposit of the payments received from the State.
- 3. Cancelled checks or disbursement documents showing payments made to vendors, subcontractors, consultants, and/or agents under the grants or loans.
- 4. Bank statements showing the deposit of the receipts.

Accounting Records:

- 1. Ledgers showing entries for funding receipts and cash disbursements.
- 2. Ledgers showing receipts and cash disbursement entries of other funding sources.
- 3. Bridging documents that tie the general ledger to requests for Grant Agreement reimbursement.

Administration Costs:

1. Supporting documents showing the calculation of administration costs.

Personnel:

- 1. List of all contractors and Agency staff that worked on the State funded Program/Project.
- 2. Payroll records including timesheets for contractor staff and the Agency personnel who provided services charged to the program

Project Files:

- 1. All supporting documentation maintained in the project files.
- 2. All Grant Agreement related correspondence.

Cost Share Guidelines

Cost Share (often referred to as funding match) consists of non-State funds, including in-kind services. In-kind services are defined as work performed (i.e., dollar value of non-cash contributions) by the Grantee (and potentially other parties) directly related to the execution of the funded project. Examples include volunteer services, equipment use, and use of facilities. The cost of in-kind service can be counted as funding match in-lieu of actual funds (or revenue) provide by the Grantee. Other funding match and in-kind service eligibility conditions may apply. Provided below is guidance for documenting cost share with and without in-kind services.

- 1. Although tracked separately, in-kind services shall be documented and, to the extent feasible, supported by the same methods used by the Grantee for its own employees. Such documentation should include the following:
 - a. Detailed description of the contributed item(s) or service(s)
 - b. Purpose for which the contribution was made (tied to project work plan)
 - c. Name of contributing organization and date of contribution
 - d. Real or approximate value of contribution. Who valued the contribution and how was the value determined? (e.g., actual, appraisal, fair market value, etc.). Justification of rate. (See item #2, below)
 - e. Person's name and the function of the contributing person
 - f. Number of hours contributed
 - g. If multiple sources exist, these should be summarized on a table with summed charges
 - h. Source of contribution if it was provided by, obtained with, or supported by government funds
- 2. Rates for volunteer or in-kind services shall be consistent with those paid for similar work in the Grantee's organization. For example, volunteer service of clearing vegetation performed by an attorney shall be valued at a fair market value for this service, not the rate for professional legal services. In those instances, in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market. Paid fringe benefits that are reasonable, allowable and allocable may be included in the valuation.

- 3. Cost Share contribution (including in kind services) shall be for costs and services directly attributed to activities included in the Grant Agreement. These services, furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as in-kind if the activities are an integral and necessary part of the project funded by the Grant Agreement.
- 4. Cash contributions made to a project shall be documented as revenue and in-kind services as expenditure. These costs should be tracked separately in the Grantee's accounting system.