




COUNTY OF HUMBOLDT

AGENDA ITEM NO.
M-2

For the meeting of: May 24, 2016

Date: May 4, 2016

To: Board of Supervisors

From:  Thomas K. Mattson, Public Works Director

Subject: Grant Agreement for the Elk River Watershed Stewardship Program, Professional Services Agreement with the Regents of the University of California on behalf of the Agriculture and Natural Resources Cooperative Extension, and Supplemental Budget for Water Management (1100251), (4/5 Vote Required)

RECOMMENDATIONS:

That the Board of Supervisors:

1. Approve the attached resolution (Attachment 1) authorizing the County of Humboldt, by and through its Department of Public Works – Environmental Services Division, to enter into State Grant Agreement No. D1513101 (Attachment 2) with the State Water Resources Control Board to initiate the Elk River Watershed Stewardship Program, and authorizing the Humboldt County Public Works Director or his designee to sign the agreement;
2. Approve the attached professional services agreement (Attachment 3) with the Regents of the University of California to perform technical assistance in support of the Elk River Watershed Stewardship Program;
3. Authorize the Chair to execute the professional services agreement in triplicate, and direct the Clerk of the Board to transmit two copies of the executed professional services agreement to Public Works; and

Prepared by Hank Seemann

CAO Approval 

REVIEW:

Auditor 

County Counsel SM

Personnel _____

Risk Manager _____

Other _____

TYPE OF ITEM:

- Consent
- Departmental
- Public Hearing
- Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Fennell
Seconded by Supervisor Bass
And unanimously carried by those members present,
The Board hereby adopts the recommended action
Contained in this report.

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

Dated: May 24, 2016
Kathy Hayes, Clerk of the Board

By: 

4. Adopt the following supplemental budget for Fiscal Year 2015-16:

<u>Revenue:</u>	1100251-525001	State Grant	\$15,000
<u>Expenditures:</u>	1100251-3446	Elk River Stewardship Program	\$15,000

SOURCE OF FUNDING: State Water Resources Control Board

DISCUSSION:

The Elk River watershed is situated south of the greater Eureka area and discharges into Humboldt Bay. Areas within the watershed have experienced significant impacts associated with sedimentation over the last several decades, resulting in impaired hydrologic function, water quality, and habitat conditions. Residents within the Elk River watershed have experienced nuisance flooding to private property and public roads, and impairments to land use opportunities and water supplies. The watershed has a complicated history of timber harvesting and human alterations to the landscape, along with underlying geologic conditions and floodplain processes that are sensitive to disturbance.

Since 2014, Public Works has been communicating with stakeholders regarding the opportunity to sponsor the initiation of the Elk River Watershed Stewardship Program (“Stewardship Program”) as a framework for supporting non-regulatory, cooperative efforts to improve watershed conditions. The Stewardship Program is intended to provide an open and transparent venue for residents, land managers, and other stakeholders to develop solutions and identify potential projects related to sediment remediation and restoration, flood hazard mitigation, sustainable water supplies, and enhanced beneficial uses of water. In addition, the Stewardship Program will promote coordinated science and monitoring to support project planning and land management.

The Stewardship Program will complement the ongoing Elk River Recovery Assessment, led by CalTrout, which is an intensive technical study assessing the feasibility of specific remediation and restoration scenarios. The Stewardship Program and Recovery Assessment are the primary non-regulatory components of the North Coast Regional Water Quality Control Board’s Upper Elk River Sediment Total Maximum Daily Load Action Plan.

The attached resolution (Attachment 1) authorizes the County of Humboldt, by and through its Department of Public Works – Environmental Services Division, to enter into a funding agreement (State Grant Agreement No. D1513101) with the State Water Resources Control Board (Attachment 2) to initiate and administer the Stewardship Program for two years, through June 2018. The Stewardship Program will seek to identify feasible, community-supported projects that can enhance watershed conditions, with an emphasis on cultivating relationships and developing strategies for successful projects. The attached grant agreement does not obligate the County to implement projects. Implementation of projects would occur in subsequent phases after identifying lead agencies or organizations and securing the necessary funding and support.

Key partners in initiating the proposed Stewardship Program include the University of California Cooperative Extension, CalTrout, and USDA-Natural Resources Conservation Service, in addition to the Regional Water Quality Control Board. These organizations have committed

substantial staffing resources to assist in the two-year start-up phase of the Stewardship Program and will help represent the diverse stakeholders in the watershed.

The total funding provided by the attached grant agreement is \$174,956. Portions of this funding will be provided to the University of California Cooperative Extension (\$76,695) and CalTrout (\$49,100). Because the funding provided to the University of California Cooperative Extension exceeds \$50,000, the Board must approve the attached professional services agreement with the Regents of the University of California (Attachment 3) per the County's purchasing policy.

Active participation and involvement by Elk River residents and stakeholders will be essential for success, due to their knowledge of the watershed and its history and their vested interest in improved conditions. Opportunities to participate will include public meetings, smaller working groups, workshops, field trips, and surveys and questionnaires. The first public meeting is planned for June 30, 2016, from 6:30 to 8:30 p.m. at the Humboldt County Agricultural Center. Much of the Stewardship Program efforts will be organized around four working groups focusing on sediment remediation, water supplies, road access, and science and monitoring. A brochure describing the Stewardship Program is provided in Attachment 4.

The Stewardship Program will aim to build an organizational structure to support long-term collaboration in the watershed. If the Stewardship Program proves to be useful and effective, then additional funding could be pursued to continue the program beyond June 2018.

FINANCIAL IMPACT:

The proposed action does not impact the General Fund as all costs will be reimbursed under the grant with the State Water Resources Control Board. The proposed supplemental budget adds \$15,000 to the appropriate revenue and expenditure lines to account for anticipated costs in the remainder of Fiscal Year 2015-16. This project has also been incorporated into Public Works' proposed budget for Fiscal Year 2016-17.

This project will advance three of the County's core roles (provide for and maintain infrastructure, create opportunities for improved safety and health, and protect vulnerable populations).

OTHER AGENCY INVOLVEMENT:

State Water Resources Control Board; University of California Cooperative Extension; North Coast Regional Water Quality Control Board; USDA-Natural Resources Conservation Service

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Board discretion

ATTACHMENTS:

1. Resolution
2. State Water Board Grant Agreement No. D1513101
3. Professional Services Agreement with the Regents of the University of California
4. Elk River Watershed Stewardship Program Brochure

Attachment 1

Resolution

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of May 24, 2016

RESOLUTION NO. 16-62

RESOLUTION AUTHORIZING THE COUNTY OF HUMBOLDT TO ENTER INTO AN AGREEMENT WITH THE STATE OF CALIFORNIA FOR THE ELK RIVER WATERSHED STEWARDSHIP PROGRAM, AND DESIGNATING THE HUMBOLDT COUNTY PUBLIC WORKS DIRECTOR TO SIGN THE AGREEMENT AND ANY AMENDMENTS THERETO

WHEREAS, in January 2015 the Humboldt County Department of Public Works applied to the State Water Resources Control Board for funds from the Clean Water Act 319(h) program to support initiation of the Elk River Watershed Stewardship Program ("Stewardship Program"), in collaboration with the University of California Cooperative Extension; CalTrout; USDA-Natural Resources Conservation Service; and the North Coast Regional Water Quality Control Board; and

WHEREAS, the Stewardship Program is identified as a primary component in the North Coast Regional Water Quality Control Board's Action Plan for implementing the Upper Elk River Sediment Total Maximum Daily Load; and

WHEREAS, the purpose of the Stewardship Program is to build the necessary foundation for implementing voluntary projects and activities to enhance conditions in the Elk River Watershed; and

WHEREAS, the goals of the Stewardship Program are to:

1. Seek common ground among diverse participants.
2. Identify strategies and solutions to:
 - a. Improve hydrologic function, water quality, and habitat conditions.
 - b. Reduce nuisance flooding and improve access to transportation routes during high water conditions.
 - c. Improve residential and agricultural water supplies.
3. Promote coordinated science and monitoring.

NOW, THEREFORE, BE IT RESOLVED by the Humboldt County Board of Supervisors that:

1. The County of Humboldt, by and through its Department of Public Works - Environmental Services Division, is hereby authorized to enter into State Grant Agreement No. D1513101 with the State of California for the Elk River Watershed Stewardship Program; and
2. The Humboldt County Public Works Director, or designee thereof, is authorized to sign State Grant Agreement No. D1513101 and any amendments thereto.

Dated: May 24, 2016



MARK LOVELACE, Chair
Humboldt County Board of Supervisors

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of May 24, 2016

RESOLUTION NO. 16-62

Adopted on motion by Supervisor Fennell, seconded by Supervisor Bass, and the following vote:

AYES: Supervisors Sundberg, Fennell, Lovelace, Bohn, Bass
NAYS: Supervisors --
ABSENT: Supervisors --
ABSTAIN: Supervisors --

STATE OF CALIFORNIA)
County of Humboldt)

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be an original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.



By ANA HARTWELL
Deputy Clerk of the Board of Supervisors of the
County of Humboldt, State of California

Attachment 2

State Water Board Grant Agreement No. D1513101

CALIFORNIA'S NONPOINT SOURCE POLLUTION CONTROL PROGRAM
 FEDERAL CLEAN WATER ACT SECTION 319(h) GRANT
 GRANT AGREEMENT
 BETWEEN THE
 STATE WATER RESOURCES CONTROL BOARD, hereinafter called "State" or "State Water Board"
 AND
 COUNTY OF HUMBOLDT, hereinafter called "Grantee"
 ELK RIVER STEWARDSHIP PROGRAM, hereinafter called "Project"
 AGREEMENT NO. D1513101

State and Grantee hereby agree as follows:

PROVISION(S). The following provision(s) authorize the State Water Board to enter into this type of Grant Agreement:

Clean Water Act (CWA) § 319(h) – Nonpoint Source Planning

PURPOSE. State shall provide a grant to and for the benefit of the Grantee for the purpose of developing the Elk River Watershed Stewardship Program (Stewardship Program) to build the necessary foundation for implementing projects and activities to enhance conditions in the Elk River Watershed and achieve the goals of the sediment Total Maximum Daily Load (TMDL) for the Upper Elk River.

FUNDING. Funds for this Project were provided by a federal grant (Cooperative Agreement No. C9-97957516-0 from the United States Environmental Protection Agency (USEPA) to the State Water Board to implement California's Nonpoint Source Program pursuant to CWA Section 319(h).

GRANT AMOUNT. The maximum amount payable under this Agreement shall not exceed \$174,956. Stream Reach affected by the Project for any monitoring must be identified prior to any disbursements.

TERM OF AGREEMENT. The term of the Agreement shall begin on MAY 1, 2016 and continue through June 30, 2025 unless otherwise terminated or amended as provided in the Agreement. HOWEVER, ALL WORK SHALL BE COMPLETED BY JUNE 30, 2018. ABSOLUTELY NO FUNDS MAY BE REQUESTED AFTER JULY 31, 2018.

PROJECT REPRESENTATIVES. The Project Representatives during the term of this Agreement will be:

State Water Board	Grantee: County of Humboldt
Name: Clayton Creager, Grant Manager	Name: Hank Seemann, Project Director
Address: 5550 Skylane Blvd, Suite A	Address: 825 5 th Street
City, Zip: Santa Rosa, CA 95403	City, Zip: Eureka, CA 95501
Phone: (707) 576-2666	Phone: (707) 445-7741
Fax: (707) 576-0135	Fax: (707) 445-7409
e-mail: Clayton.Creager@waterboards.ca.gov	e-mail: hseemann@co.humboldt.ca.us

Direct all inquiries to:

State Water Board	Grantee: County of Humboldt
Section: Division of Financial Assistance	Section:
Attention: Amy Sunahara, Program Analyst	Name: Cybelle Immitt, Grant Contact
Address: 1001 I Street, 17 th Floor	Address: 825 5 th Street
City, Zip: Sacramento, CA 95814	City, Zip: Eureka, CA 95501
Phone: (916) 319-9126	Phone: (707) 267-9542
Fax: (916) 341-5296	Fax: (707) 445-7409
e-mail: Amy.Sunahara@waterboards.ca.gov	e-mail: cimmitt@co.humboldt.ca.us

Either party may change its Project Representative upon written notice to the other party.

STANDARD PROVISIONS. The following exhibits are attached and made a part of this Agreement by this reference:

- Exhibit A SCOPE OF WORK - WORK TO BE PERFORMED BY THE GRANTEE
- Exhibit B INVOICING, BUDGET DETAIL AND REPORTING PROVISIONS
- Exhibit C GENERAL TERMS & CONDITIONS
- Exhibit D SPECIAL CONDITIONS

GRANTEE REPRESENTATIONS. The Grantee accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and commitments made by the Grantee in its application, accompanying documents, and communications filed in support of its request for grant funding. The Grantee shall comply with and require its contractors and subcontractors to comply with all applicable laws, policies and regulations.

IN WITNESS THEREOF, the parties have executed this Agreement on the dates set forth below.

By: _____
Grantee Signature

By: _____
Darrin Polhemus, Deputy Director
State Water Resources Control Board,
Division of Financial Assistance

Grantee Typed/Printed Name

Date

Title

Reviewed by:
Office of Chief Counsel
Date:

Date

EXHIBIT A
SCOPE OF WORK – WORK TO BE PERFORMED BY THE GRANTEE

A. PLANS AND GENERAL COMPLIANCE REQUIREMENTS

1. In order for the State and Regional Water Quality Control Board (Regional Water Board) staff to verify work was adequately performed or conducted, stream reach and all twelve (12) digit Hydrologic Unit Code subwatersheds (HUC-12s) that are affected by the Project must be identified prior to any disbursements.
2. The Grantee shall prepare and implement a Project Assessment and Evaluation Plan (PAEP) to detail the methods of measuring Project benefits and reporting them in accordance with a PAEP. Many projects include multiple activities that will require measurement of several parameters to evaluate Project performance. All implementation projects that propose pollution load and/or concentration reductions must report such reductions annually. Annual load/concentration reduction reports shall be uploaded by the Grantee to the Financial Assistance Application Submittal Tool (FAAST) system. Use the CWA 319(h) Non Point Source Pollution Reduction Project Follow-up Survey Form, which is available at: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/grant_info/docs/grts_annual_load_reduction_form.xls or a similar format to report annual load reductions. Projects protecting, restoring or creating streams, shorelines, or wetlands, must report an annual accounting of the acres of wetlands restored and created, feet of stream bank and shoreline protected and feet of stream channel stabilized. The Grantee shall not implement monitoring and performance assessment and/or evaluation actions prior to PAEP approval by the State Water Board Grant Manager (Grant Manager). The Grantee shall upload a pdf version of the final approved PAEP to the FAAST system. Guidance for preparing the PAEP is available at: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/paep/index.shtml.
3. If environmental water quality monitoring (chemical, physical, or biological) is undertaken, the Grantee shall prepare, maintain, and implement a Monitoring Plan (MP). The Grantee shall upload a pdf version of the final approved MP to the FAAST system. The MP shall include, but is not limited to, a description of the monitoring objectives, types of constituents to be monitored, and the sampling location frequency/schedule for the monitoring activities. The MP will include the schedule for submittal of monitoring reports. The Grantee shall be prohibited from implementing any sampling or monitoring activities prior to approval of the MP by the Grant Manager. No monitoring may occur prior to MP approval. Any changes to the MP must be submitted to the Grant Manager for review and a decision regarding approval prior to implementation.
4. If an MP is prepared, the Grantee shall also prepare, maintain, and implement a Quality Assurance Project Plan (QAPP) in accordance with the State Water Board's Surface Water Ambient Monitoring Program's (SWAMP) QAPP and data reporting requirements, the SWAMP Quality Assurance Program Plan Guidelines (available at: http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/qapp/qappr082209.pdf), and the USEPA QAPP, EPA AQ/R5, 3/01. Water quality monitoring data includes physical, chemical, and biological monitoring of any surface water. Electronic submittal of data collected in accordance with SWAMP shall be required. The QAPP shall be submitted to the State or Regional Water Board's Quality Assurance (QA) Officer for review and a decision regarding approval prior to the Grantee implementing any sampling or monitoring activities. The Grantee shall upload a pdf version of the final approved QAPP to the FAAST system. No monitoring may occur prior to QAPP approval. Any costs related to monitoring data collected prior to and not supported by the approved QAPP will not be reimbursed. Guidance for preparing the QAPP is available at: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/grant_info/index.shtml
5. If proof of submission of water quality data to CEDEN is required in the Table of Items for Review, the Grantee shall upload all water quality data obtained through its implementation of the MP to the California Environmental Data Exchange Network (CEDEN). The Grantee shall also provide a receipt of successful data submission, which is generated by CEDEN, to the Grant Manager prior to submitting a final invoice. Guidance for submitting data, including required minimum data elements and data formats, is available at <http://www.ceden.org> or the Regional Data Centers (RDCs) (Moss Landing Marine Lab, San Francisco Estuary Institute, Southern California Coastal Water Research Project, or Central Valley RDC). Contact information for the RDCs is included in the CEDEN web link.

6. Activities supported by grant funds are projects under the California Environmental Quality Act (CEQA) and must comply with CEQA requirements. Work on the Project cannot begin until the State Water Board has reviewed the CEQA documentation submitted by the Grantee and given environmental clearance. If the work is conducted on federal land, the Grantee must also comply with the National Environmental Policy Act (NEPA). Proceeding with work subject to CEQA and/or NEPA without environmental clearance by the State Water Board shall constitute a breach of a material provision of this Agreement.
7. If public agency approvals, entitlements or permits are required, such approvals, entitlements or permits must be obtained and signed copies submitted to the Grant Manager before work begins. If the Project is carried out on lands not owned by the Grantee, the Grantee must obtain adequate rights of way for the useful life of the Project and submit the rights-of-way documentation to the Grant Manager.
8. State Disclosure Requirements – Include the following disclosure statement in any document, written report, or brochure prepared in whole or in part pursuant to this Agreement:

"This Project has been funded wholly or in part by the USEPA and the State Water Resources Control Board (State Water Board). The contents of this document do not necessarily reflect the views and policies of the USEPA or the State Water Board, nor does the USEPA or the State Water Board endorse trade names or recommend the use of commercial products mentioned in this document."

The Grantee shall place a sign in a prominent location at Project site (if applicable) or at the Grantee's headquarters and shall include the following color logos:



(logo available from the Grant Manager), and the following disclosure statement:

"Funding for this project has been provided in full or in part through an agreement with the State Water Resources Control Board and the U.S. Environmental Protection Agency under the Federal Nonpoint Source Pollution Control Program (Clean Water Act Section 319)."

The Project sign may include another agency's required promotional information so long as the above logo and disclosure statement are equally prominent on the sign. The sign shall be prepared in a professional manner. Additionally, the required contents of the sign (logo and disclosure statement) shall be posted on the Grantee's website or any of the Grantee's web page(s) associated with the Project.

9. The Grantee shall also include in each of its contracts for work under this Agreement a provision that incorporates the requirements stated within Item 8 of this exhibit.

B. PROJECT-SPECIFIC REQUIREMENTS

1. Project Management

- 1.1 Provide all technical and administrative services as needed for Project completion; monitor, supervise, and review all work performed; and coordinate budgeting and scheduling to ensure the Project is completed within budget, on schedule, and in accordance with approved procedures, applicable laws, and regulations.
- 1.2 Notify the Grant Manager at least fifteen (15) working days in advance of upcoming meetings, workshops, and trainings.

2. Steering Committee Activities

- 2.1 Convene the Elk River Stewardship Group Steering Committee that includes staff from Humboldt County, the University of California Cooperative Extension, California Trout, Inc., the United States Department of Agriculture-Natural Resources Conservation Service, and the North Coast Regional Water Board. Submit the list of members with their organizational affiliation and their roles and responsibilities to the Grant Manager.
- 2.2 Conduct a minimum of twenty-four (24) Steering Committee meetings to solicit input throughout the Project. Submit the agendas, meeting minutes, and sign-in sheets to the Grant Manager.
- 2.3 Develop an operating agreement to address the purpose and vision and facilitate the effective implementation of the Stewardship Program. Submit the operating agreement to the Grant Manager.
- 2.4 Develop, and update as necessary, a schedule of activities, deliverables, and funding sources for all Stewardship Program tasks identified in this Project, the Elk River Recovery Assessment (Agreement 13-087-110), and the Elk River Sediment Remediation Pilot Implementation Projects (2015 Timber Fund PIN 32144). Submit the schedule and any updates to the Grant Manager for review and approval.
- 2.5 Develop a website that contains an overview of the Stewardship Program, maps, web links, and other appropriate documents that educate stakeholders on activities being conducted or proposed in the Watershed. Submit the web link, initial homepage, and summary of changes in the associated quarterly report.

3. Stakeholder Outreach and Coordination

- 3.1 Prepare a watershed-wide property ownership map and potential stakeholder contact list including community members, residents, scientists, land managers, and regulatory agencies and submit the list and information to the Grant Manager.
- 3.2 Prepare, and update as needed, a newsletter that identifies the Elk River's current conditions, issues and problems, TMDL goals, and the goals and schedule of the Stewardship Program and distribute at community meetings, post on the Stewardship Program website, and email lists. Submit a copy of the newsletter(s) to the Grant Manager.
- 3.3 Prepare a statement of principles and expectations to promote stakeholder participation in the Elk River Stewardship Group and submit to the Grant Manager.
- 3.4 Assess the potential stakeholder contact list in Item 3.1, evaluate representation objectives and needs, and invite stakeholders to participate in the Stewardship Program in accordance with the principles and expectations prepared in Item 3.3. Submit the list of identified stakeholders to the Grant Manager.
- 3.5 Convene a minimum of three (3) meetings to inform stakeholders of Stewardship Program goals and to develop a shared vision for the desired future conditions of the Elk River Watershed.
- 3.6 Organize three workgroups to focus on specific elements of the implementation strategies described in Items 4, 5, and 6.
 - 3.6.1 Convene and facilitate a minimum of eight (8) meetings with the Health and Safety Workgroup, with at least four (4) meetings focused on water supply issues and four (4) meetings focused on nuisance flooding and road access issues.
 - 3.6.2 Convene and facilitate minimum of eight (8) meetings with the Sediment Remediation Workgroup focused on excess sediment remediation, improved floodwater conveyance, sediment transport, and ecosystem function. Two (2) of the eight (8) meetings shall include

presentations on outputs of the Elk River Recovery Assessment Plan, as described in Agreement No. 13-087-110 between the State Water Board and California Trout, Inc.. At least one (1) of the eight (8) meetings will include a design charrette process focused on sediment remediation issues.

- 3.6.3 Convene and facilitate a minimum of six (6) meetings with the Science and Monitoring Coordination Workgroup focused on evaluating water quality, sediment, and flow monitoring efforts and opportunities to enhance effectiveness.
- 3.7 Coordinate additional meetings with individual stakeholders and landowners as needed.
- 3.8 Submit the agendas, meeting minutes, sign-in sheets, and handouts of all stakeholder and workgroup meetings to the Grant Manager.
4. Health and Safety Flooding-Related Community Health and Safety Projects Action Plan
 - 4.1 Identify potential projects to address drinking water and agricultural water needs where water supply is challenged due to sediment deposition, establish criteria for evaluating such projects, and submit the list of potential projects and criteria to the Grant Manager and Steering Committee.
 - 4.2 Evaluate the potential water supply projects using the criteria described in Item 4.1, prepare a water supply strategy for subsequent implementation, and submit the strategy to the Grant Manager and Steering Committee.
 - 4.3 Prepare concept proposals for subsequent implementation projects to reduce impacts from nuisance flooding on Elk River Road, Wrigley Road, Elk River Courts, Berta Road, and Zanes Road, including feasibility of road/bridge improvement projects, alternative road access routes for emergency and non-emergency conditions, and associated budget cost estimates.
 - 4.4 Evaluate the concept proposals described in Item 4.3, and develop a project study report that documents the concept proposals and is consistent with the standard California Department of Transportation format. Submit the project study report to the Grant Manager and Steering Committee.
 - 4.5 Develop a Health and Safety Action Plan that describes the actions necessary to implement the water supply strategy described in Item 4.2 and the project study report described in Item 4.4, preliminary cost estimates, and a funding plan.
 - 4.6 Submit the action plan to the Steering Committee for review and the Grant Manager for review and approval.
5. Health and Safety Sediment Remediation Action Plan
 - 5.1 Identify river reach-specific potential remediation areas, project types, and individual projects using information provided by the Elk River Recovery Assessment Plan and stakeholders, establish criteria, and submit the list of project types, individual projects, and criteria used to the Grant Manager and Steering Committee.
 - 5.2 Evaluate the potential remediation areas, project types, and individual projects using the criteria established in Item 5.1 to identify two (2) preferred remediation strategies, including detailed descriptions of specific actions or sets of actions. Submit the strategies to the Grant Manager and Steering Committee for review and to California Trout, Inc. for inclusion in their technical feasibility assessment under the Elk River Recovery Assessment.
 - 5.3 Develop a Sediment Remediation Action Plan that evaluates and broadens the results of the Elk River Recovery Assessment's technical feasibility assessment, using the results from Agreement 13-087-110, to consider social, regulatory, and funding feasibility strategies and includes conceptual maps and schematics, a narrative project description, preliminary cost estimates, a

funding plan, and a description of the actions necessary to implement the sediment remediation strategy.

- 5.3.1 Submit the Sediment Remediation Action Plan to the Steering Committee for review and to the Grant Manager for review and approval.

6. Science and Monitoring Coordinated Action Plan

- 6.1 Compile readily available reports, historical water quality monitoring results, and data and post monitoring data and reports on the Stewardship Program website.
- 6.2 Develop a framework for monitoring goals, objectives, and parameters and evaluate the sufficiency of the current monitoring network for monitoring long-term trends, effectiveness of remediation actions, and other purposes. Identify how existing and new data will be assessed, shared, and used to guide projects and activities.
- 6.3 Prepare a science and monitoring implementation strategy and submit to the Steering Committee and the Grant Manager.
- 6.4 Develop a Coordinated Science and Monitoring Action Plan that describes the actions necessary to implement the monitoring strategy in Item 6.3 and include preliminary cost estimates.
- 6.5 Submit the coordinated Science and Monitoring Action Plan to the Steering Committee for review and to the Grant Manager for review and approval.

TABLE OF ITEMS FOR REVIEW

ITEM	DESCRIPTION	CRITICAL DUE DATE	ESTIMATED DUE DATE
EXHIBIT A – SCOPE OF WORK – WORK TO BE PERFORMED BY THE GRANTEE			
A.	PLANS AND GENERAL COMPLIANCE REQUIREMENTS		
1.	All HUC-12s for Project Site	120 Days After Execution	
	Stream Reach for Potential Project Site and Monitoring Locations	Before Final Invoice	
2.	Project Assessment and Evaluation Plan (PAEP)	60 Days After Execution	
	Non Point Source Pollution Reduction Project Follow-up Survey Form	N/A	
3.	Monitoring Plan (MP)	N/A	
	Monitoring Reports		N/A
4.	Quality Assurance Project Plan (QAPP)	N/A	
5.	Proof of Water Quality Data Submission to CEDEN	N/A	
6.	Copy of Final CEQA/NEPA Documentation	60 Days After Execution	
7.	Public Agency Approvals, Entitlements or Permits		As Needed
	Rights of Way Documentation		As Needed
B.	PROJECT-SPECIFIC REQUIREMENTS		
1.	Project Management		
1.2	Notification of Upcoming Meetings, Workshops, and Trainings		Ongoing
2.	Steering Committee Activities		
2.1	List of Members with their Organizational Affiliation and Roles and Responsibilities		July 2016
2.2	Agenda, Meeting Minutes, and Sign-in Sheets		Ongoing
2.3	Operating Agreement		August 2016
2.4	Schedule of Activities and Any Updates		July 2016
3.	Stakeholder Outreach and Coordination		
3.1	List and Information		August 2016
3.2	Newsletter(s)		Ongoing
3.3	Statement of Principles and Expectations	9/30/2016	
3.4	List of Identified Stakeholders		September 2016
3.8	Agendas, Meeting Minutes, Sign-in Sheets, and Handouts		Ongoing
4.	Flooding-Related Community Health and Safety Projects Action Plan		

ITEM	DESCRIPTION	CRITICAL DUE DATE	ESTIMATED DUE DATE
EXHIBIT A – SCOPE OF WORK – WORK TO BE PERFORMED BY THE GRANTEE			
4.1	List of Potential Projects and Criteria		August 2017
4.2	Water Supply Strategy		December 2017
4.4	Project Study Report		December 2017
4.6	Health and Safety Action Plan	3/31/2018	
5.	Sediment Remediation Action Plan		
5.1	List of Project Types, Individual Projects, and Criteria		August 2017
5.2	Preferred Remediation Strategies		December 2017
5.3.1	Sediment Remediation Action Plan		March 2018
6.	Science and Monitoring Coordination Action Plan		
6.3	Science and Monitoring Implementation Strategy		December 2017
6.5	Coordinated Science and Monitoring Action Plan		March 2018
EXHIBIT B – INVOICING, BUDGET DETAIL, AND REPORTING PROVISIONS			
A.	INVOICING		Quarterly
F.	REPORTS		
1.	Progress Reports within forty-five (45) days following the end of the calendar quarter (March, June, September, and December)		Quarterly
2.	Annual Progress Summaries		Annually by 9/30
3.	Natural Resource Project Inventory (NRPI) Project Survey (If applicable)	Before Final Invoice	
4.	Draft Project Report	4/30/2018	
5.	Final Project Report	5/31/2018	
6.	Final Project Summary	Before Final Invoice	
7.	Final Project Inspection and Certification	Before Final Invoice	
EXHIBIT D –SPECIAL CONDITIONS			
1.	Lobbying Certification		With Final Report
2.	MBE/WBE Documentation (http://www.epa.gov/osbp/pdfs/5700_52a.pdf)		Quarterly

EXHIBIT B
INVOICING, BUDGET DETAIL AND REPORTING PROVISIONS

A. INVOICING

1. Invoices shall be submitted using the invoice template provided by the State Water Board. The invoice must be itemized based on the line items specified in the Budget. The original invoice shall be submitted to the State Water Board's Grant Manager on a quarterly basis consistent with the reporting schedule in Section G.1 of this exhibit. The address for submittal is:

Clayton Creager, Grant Manager
Regional Water Quality Control Board
5550 Skylane Blvd, Suite A
Santa Rosa, CA 95403

2. Invoices submitted in any other format than the one provided by the State Water Board will cause an invoice to be disputed. In the event of an invoice dispute, the State Water Board's Grant Manager will notify the Grantee by initiating an "Invoice Dispute Notification" form. Payment will not be made until the dispute is resolved and a corrected invoice submitted. Failure to use the address exactly as provided above may result in return of the invoice to the Grantee. Payment shall be deemed complete upon deposit of the payment, properly addressed, postage prepaid, in the United States mail. The Grant Manager has the responsibility for approving invoices.
3. Supporting documentation (e.g., receipts) must be submitted with each invoice to request reimbursement for grant funds as well as to support Match Funds invoiced. The amount claimed for the Personnel Services line item and Professional and Consultant Services line item must include a calculation formula (i.e. hours or days worked times the hourly or daily rate = total amount claimed). Invoice payment shall be made only after receipt of a complete, adequately supported, properly documented and accurately addressed invoice.
4. The Grantee shall not request disbursement for any cost until such cost has been incurred and has been paid by or is due and payable by the Grantee. Although it is agreed that actual payment of such cost by the Grantee is not required as a condition of the grant disbursement, all grant disbursements received by the Grantee shall be paid to contractors and vendors within thirty (30) days from receipt of the funds. In the event that the Grantee fails to disburse grant funds to contractors or vendors within thirty (30) days from receipt of the funds, the Grantee shall immediately return such funds to the State Water Board. Interest shall accrue on such funds from the date of disbursement through the date of mailing of funds to the State Water Board. If the Grantee held such funds in interest-bearing accounts, any interest earned on the funds shall also be due to the State Water Board.
5. Notwithstanding any other provision of this 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.
6. Notwithstanding any other provision of this Agreement, the State Water Board may withhold all or any portion of the funds provided for by this Agreement in the event that:
 - a. The Grantee has materially violated, or threatens to materially violate, any term, provision, condition, or commitment of this Agreement; or
 - b. The Grantee fails to maintain reasonable progress toward completion of the Project.
7. Notwithstanding any other provision of this Agreement, the Grantee agrees that the State Water Board may retain an amount equal to ten percent (10%) of the grant amount specified in this Agreement until completion of the Project to the reasonable satisfaction of the State Water Board. Any retained amounts due to the Grantee will be promptly disbursed to the Grantee, without interest, upon completion of the Project.

8. The invoice shall contain the following information:
 - a. The date of the invoice;
 - b. The time period covered by the invoice, i.e., the term "from" and "to";
 - c. The total amount due; and
 - d. Original signature and date (in ink) of Grantee or its authorized representative.
 - e. Final invoice shall be clearly marked "FINAL INVOICE" and submitted NO LATER THAN JULY 31, 2018.

B. PROHIBITION OF INDIRECT COSTS

Grant funds may not be used for any indirect costs. "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 Project (i.e., costs that are not directly related to the 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 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. Any invoice submitted including Indirect Costs will cause that invoice, in its entirety, to be disputed and will not be paid until the dispute is resolved. This prohibition applies to the Grantee and any subcontract or sub-agreement for work on the Project that will be reimbursed with grant funds pursuant to this Agreement. (Clean Water Act Section 319(h) Nonpoint Source 2015 Grant Program Guidelines, Section G.)

C. BUDGET CONTINGENCY CLAUSE

The maximum amount to be encumbered under this Agreement for the 2015-16 fiscal year ending JUNE 30, 2016 shall not exceed ONE HUNDRED SEVENTY-FOUR THOUSAND, NINE HUNDRED FIFTY-SIX DOLLARS (\$174,956).

If the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no force and effect. This provision shall be construed as a condition precedent to the obligation of the State Water Board to make any payments under this Agreement. In this event, the State shall have no liability to pay any funds whatsoever to the Grantee or to furnish any other considerations under this Agreement and the Grantee shall not be obligated to perform any provisions of this Agreement. Nothing in this Agreement shall be construed to provide the Grantee with a right of priority for payment over any other Grantee.

If this Agreement's funding for any fiscal year is reduced or deleted by the Budget Act, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to the Grantee to reflect the reduced amount.

D. LINE ITEM BUDGET

	319(h)
Personnel Services	\$ 48,108
Operating Expenses (Prorated for Project) Advertising and direct mailings, outreach material reproduction (brochure, newsletters, flyers, etc.), and workshop supplies (flipchart paper, pens, name tags etc.)	\$ 1,054
Equipment (\$5,000 or more per item)	\$ 0
Professional and Consultant Services Participation on the Steering Committee, outreach and coordination, facilitation for workgroup and stakeholder meetings, technical support for deliverables and support for the development of a website, newsletter, and program schedule.	\$ 125,794
Construction (Contracted Services)	\$ 0
TOTAL	\$ 174,956

E. BUDGET LINE ITEM FLEXIBILITY

1. Line Item Adjustment(s). Subject to the prior review and approval of the Grant Manager, adjustments between existing line item(s) may be used to defray allowable direct costs up to fifteen percent (15%) of the total grant amount (excluding Match Funds) including any amendment(s) thereto. Line item adjustments in excess of fifteen percent (15%) shall require a formal Agreement amendment. If the Line Item Budget includes an amount for Personnel Services, that amount is based on the hours, classifications, and rates submitted by the Grantee in its application. Any changes to the hours, classifications, and rates must be approved, in advance and in writing, by the Grant Manager.
2. Procedure to Request an Adjustment. The Grantee may submit a request for an adjustment in writing to the State Water Board. Such adjustment may not increase or decrease the total grant amount allocated per fiscal year. The Grantee shall submit a copy of the original Agreement Budget sheet reflecting the requested changes. Changes shall be noted by striking the original amount(s) followed with revised change(s) in bold and underlined. Budget adjustments deleting a budget line item or adding a new budget line item requires a formal amendment and are not permissible under this provision. The State Water Board may also propose adjustments to the budget.
3. Remaining Balance. In the event the Grantee does not submit invoices requesting all of the funds encumbered under this Agreement, any remaining funds revert to the State. The State Water Board will mail a Notice of Project Completion letter to the Grantee stating that the project file is closed, the final invoice is being processed for payment, and any remaining balance will be disencumbered and unavailable for further use under the Agreement.

F. MATCH FUNDS

1. The Grantee agrees to provide match funds in the amount of ZERO DOLLARS (\$0) (Match Funds) for this Project. This Match Funds amount is based on Line Item Budget categories, funding sources, and amounts submitted by the Grantee in its application and during the negotiation of this Agreement. Any Match Funds line item changes or adjustments in Match Funds classifications or sources requested by the Grantee must be approved, in advance and in writing, by the Grant Manager.
2. If, upon completion of the Project, the Grantee has provided match funds in an amount that is less than

the Match Funds amount set forth in paragraph F.1 above, then the State Water Board may proportionately reduce the grant amount and/or Grantee's Match Funds amount, provided the reduced amount(s) satisfy statutory requirements and State Water Board Guidelines.

G. REPORTS

1. **PROGRESS REPORT.** The Grantee shall submit quarterly progress reports to the State Water Board's Grant Manager within forty-five (45) days following the end of the calendar quarter (March, June, September, and December).
 - a. The progress reports shall provide a brief description of the work performed, accomplishments during the quarter, milestones achieved, monitoring results (if applicable), and any problems encountered in the performance of the work under this Agreement. The Grantee shall document all contractor activities and expenditures in progress reports.
 - b. The invoice should accompany the progress report. The invoice should reflect charges for the work completed during the reporting period covered by progress report. The invoice cannot be paid prior to submission of a progress report covering the invoice reporting period.
2. **ANNUAL PROGRESS SUMMARIES.** Prepare and provide an Annual Progress Summary annually by September 30. The summary must be no more than two (2) pages, and shall include pictures as appropriate. Upload an electronic copy of the Annual Progress Summary in pdf format to the FAAST system. The summary shall include the following:
 - a. A summary of the conditions the Project is meant to alleviate, the Project's objective, the scope of the Project, and a description of the approach used to achieve the Project's objective.
 - b. A summary of the progress made to date, significant milestones achieved, and the current schedule of completing the Project.
 - c. An evaluation of the effectiveness of the Project to date in preventing or reducing pollution and alleviating the Project's original conditions.
3. **NATURAL RESOURCE PROJECTS INVENTORY (NRPI) SURVEY FORM.** If available at the completion of this Project, the Grantee shall complete and submit electronically a Natural Resource Project Inventory (NRPI) Project Survey Form found at <http://www.ice.ucdavis.edu/nrpi>.
4. **DRAFT FINAL PROJECT REPORT.** Prepare and submit to the Grant Manager, for review and comment, a Draft Final Project Report in a format provided by the Grant Manager. Include a summary of the activities and results of the overall Program, and a proposed structure and funding plan for continuation of the watershed coordination and implementation efforts.
 - a. A report of all monitoring and management practices or management measures implemented, including identification of the stream reach affected by these activities. The report shall include all Project required water quality monitoring data as uploaded into CEDEN, and provided in both Microsoft Excel and pdf formats. The report must be in a format that precisely identifies monitoring and management measures locations so that the Grant Manager can easily identify the affected stream reach.
 - b. Describe Project performance, including benefits, successes and shortcomings, consistent with the PAEP. Enumerate specific quantifiable environmental changes and results of the Project. As appropriate, include 1) behavioral results such as the amount of management practices or measures implemented, 2) estimates or measurements of the amount of pollutants prevented from reaching surface or ground water, 3) documented changes in water quality based on monitoring, and 4) improved or protected beneficial uses.
 - c. Identify lessons learned in carrying out the Project. Describe what worked and what did not work, and how similar efforts could be utilized within the Project area, as well as in other watersheds.

- d. The Grantee shall include a separate analysis of the originally proposed load reductions and the actual amount of pollutants prevented from reaching surface and/or ground water. If the originally proposed Load Reductions were not achieved, the Grantee shall also identify and discuss all load reduction limiting factors and any possible future solutions. This information shall be included in both the Final Project Report and the Final Project Summary.
 - e. Describe the extent of outreach that has been conducted and if there are plans to further promote the results of the Project to achieve additional implementation.
 - f. Describe the Project's funding. Include the projected cost and actual cost of the Project, how much of the grant funds were spent, and how much funding was put into the Project from other sources. Identify funding sources that have been "leveraged" by the Project and plans for funding future activities.
 - g. Identify planned or potential follow-up activities, such as any additional steps necessary to achieve the water quality objectives, Total Maximum Daily Loads (TMDL) or local watershed plans.
 - h. Include appropriate photos and graphics.
 - i. A list of items submitted as outlined in the Table of Items for Review.
 - j. Any additional information that is deemed appropriate by the Project Director or Grant Manager.
5. FINAL PROJECT REPORT. Prepare a Final Project Report that addresses, to the extent feasible, comments made by the Grant Manager on the Draft Final Project Report. Submit one (1) reproducible master and an electronic copy of the final. Upload an electronic copy of the final report in pdf format to the FAAST system.
 6. FINAL PROJECT SUMMARY. Prepare a brief summary of the information contained in the Final Project Report, including before and after photographs, as appropriate. Upload an electronic copy of the Final Project Summary in pdf format to the FAAST system.
 7. FINAL PROJECT INSPECTION AND CERTIFICATION. Upon completion of the Project, the Grantee shall provide for a final inspection and shall certify that the Project has been completed in accordance with this Agreement, any final plans and specifications submitted to the State Water Board, and any amendments or modifications thereto. If the Project involved the planning, investigation, evaluation, design, or other work requiring interpretation and proper application of engineering, or other professionals, the final inspection and certification shall be conducted by a California Registered Civil Engineer or other appropriate California registered professional. The results of the final inspection and certification shall be provided to the Grant Manager.
 8. The Grantee agrees to expeditiously provide, during work on the Project and throughout the term of this Agreement, such reports, data, information, and certifications that may be reasonably required by the State Water Board.

H. PAYMENT OF PROJECT COSTS

The Grantee agrees that it will provide for payment of its full share of Project costs and that all costs connected with the Project will be paid by the Grantee on a timely basis.

I. AUDIT DISALLOWANCES

The Grantee agrees it shall return any audit disallowances to the State Water Board.

J. FRAUD AND MISUSE OF PUBLIC FUNDS

All invoices submitted shall be accurate and signed under penalty of perjury. Any and all costs submitted pursuant to this Agreement shall only be for the tasks set forth herein. The Grantee 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). 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. Additionally, the Deputy Director of the Division of Financial Assistance may request an audit pursuant to Exhibit C, paragraph 5 and refer the matter to the Inspector General's Office, the appropriate U.S. Attorney'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, 489-490; 33 C.F.R. §§ 30.27, 30.52, 31.22, 31.41.)

EXHIBIT C
GENERAL TERMS & CONDITIONS

1. **AGRICULTURAL WATER MANAGEMENT PLAN CONSISTENCY:** If the Grantee is an agricultural water supplier as defined by Water Code section 10608.12, Grantee must comply with Agricultural Water Management Planning requirements as mandated by Water Code section 10852.
2. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Agreement is binding on any of the parties.
3. **APPROVAL:** The Grantee will not proceed with any work on the Project until authorized in writing by the State Water Board.
4. **ASSIGNMENT:** This grant is not assignable by the Grantee, either in whole or in part, without the written consent of the State Water Board.
5. **AUDIT:** The Grantee agrees that the State Water Board, the Bureau of State Audits, the Governor of the State, the USEPA, the Office of Inspector General, or any authorized representative of the foregoing shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The Division of Financial Assistance (Division), at its option, may call for an audit of financial information relative to the Project, where the Deputy Director of the Division determines that an audit is desirable to assure program integrity or where such an audit becomes necessary because of federal requirements. Where such an audit is called for, the audit shall be performed by a certified public accountant independent of the Grantee and at the cost of the Grantee. The audit shall be in the form required by the Division. The Grantee agrees to maintain such records for a possible audit for a minimum of seven (7) years from Project Completion, unless a longer period of records retention is stipulated. The Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Grantee agrees to include a similar right of the State to audit records and interview staff in any contract related to performance of this Agreement. (Gov. Code, § 8546.7; Pub. Contract Code, § 10115 et seq.; 40 C.F.R. § 31.26). The Grantee shall comply with the Single Audit Act and the reporting requirements set forth in OMB Circular A-21, A-87, A-133, and 48 C.F.R. part 31, as applicable.
6. **COMPLIANCE WITH LAW, REGULATIONS, ETC.:** The Grantee agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements. Without limitation of the foregoing, the Grantee agrees that, to the extent applicable, the Grantee will comply with the provisions of the adopted environmental mitigation plan for the term of this Agreement, or the useful life of the Project, whichever is longer.
7. **COMPUTER SOFTWARE:** The 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 Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
8. **CONFLICT OF INTEREST:** The Grantee certifies that it is in compliance with applicable state and/or federal conflict of interest laws. Within 10 days, the Grantee shall disclose to the State Water Board any potential conflict of interest consistent with section 4.1 of the USEPA's Revised Interim Financial Assistance Conflict of Interest Policy at: http://www.epa.gov/ogd/epa_revised_interim_financial_assistance_coi_policy_5_22_15.htm. A conflict of interest may result in disallowance of costs.
9. **CONTINUOUS USE OF PROJECT; LEASE OR DISPOSAL OF PROJECT:** The Grantee agrees that, except as provided in the Agreement, it will not abandon, substantially discontinue use of, lease, or dispose of the Project or any significant part or portion thereof during the useful life of the Project without prior written approval of the Deputy Director of the Division. Such approval may be conditioned as determined to be appropriate by the Deputy Director of the Division, including a condition requiring repayment of all grant funds or any portion of all remaining grant funds covered by this Agreement together with accrued interest and any penalty assessments which may be due.

10. **DATA MANAGEMENT:** This Project includes appropriate data management activities so that Project data can be incorporated into appropriate statewide data systems.
11. **DELTA PLAN CONSISTENCY FINDINGS:** If the Grantee is a state or local public agency and the Project is covered by the Delta Plan, Grantee must submit certification of project consistency with the Delta Plan to the Delta Stewardship Council according to the requirements of Water Code section 85225 and California Code of Regulations, title 23, section 5002.
12. **DISPUTES:** The Grantee shall continue with its responsibilities under this Agreement during any dispute. Any dispute arising under this Agreement which is not otherwise disposed of by agreement shall be decided by the Deputy Director of the Division, or his or her authorized representative. The decision shall be reduced to writing and a copy thereof furnished to the Grantee and to the State Water Board's Executive Director. The decision of the Division shall be final and conclusive unless, within thirty (30) calendar days after mailing of the Division decision to the Grantee, the Grantee mails or otherwise furnishes a written appeal of the decision to the State Water Board's Executive Director. The decision of the State Water Board's Executive Director shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal under this clause, the Grantee shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Grantee shall continue to fulfill and comply with all the terms, provisions, commitments, and requirements of this Agreement. This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the State Water Board, or any official or representative thereof, on any question of law.
13. **ENVIRONMENTAL CLEARANCE (CEQA/NEPA/STREAMBED ALTERATION):**
 - a. No work that is subject to the California Environmental Quality Act (CEQA) or National Environmental Policy Act (NEPA) may proceed under this Agreement until documents that satisfy the CEQA/NEPA process are received by the Grant Manager and the State Water Board has given environmental clearance. No work that is subject to an Environmental Impact Report or a Mitigated Negative Declaration may proceed until and unless approved by the Deputy Director of the Division. Such approval is fully discretionary and shall constitute a condition precedent to any work for which it is required. Proceeding with work subject to CEQA and/or NEPA without environmental clearance by the State Water Board shall constitute a breach of a material provision of this Agreement.
 - b. If this Project includes modification of a river or stream channel, it must fully mitigate environmental impacts resulting from the modification. The Grantee must provide documentation that the environmental impacts resulting from such modification will be fully mitigated considering all of the impacts of the modification and any mitigation, environmental enhancement, and environmental benefit resulting from the Project, and whether, on balance, any environmental enhancement or benefit equals or exceeds any negative environmental impacts of the Project.
14. **FISCAL MANAGEMENT SYSTEMS AND ACCOUNTING STANDARDS:** The Grantee agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit tracking of grant funds to a level of expenditure adequate to establish that such funds have not been used in violation of state law or this Agreement. The Grantee further agrees that it will maintain separate Project accounts in accordance with generally accepted accounting principles.
15. **GOVERNING LAW:** This grant is governed by and shall be interpreted in accordance with the laws of the State of California.
16. **GRANTEE'S RESPONSIBILITY FOR WORK:** The Grantee shall be responsible for all work and for persons or entities engaged in work performed pursuant to this Agreement, including, but not limited to, consultants, 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.

17. **INCOME RESTRICTIONS:** 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.
18. **INDEPENDENT ACTOR:** The Grantee, and its agents and employees, if any, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees or agents of the State Water Board.
19. **INSPECTION:** The State Water Board, the Bureau of State Audits, the USEPA, the Office of Inspector General, or any authorized representative of the foregoing, shall have suitable access to the Project site or Project records at all reasonable times during Project implementation and thereafter for the useful life of the Project to ascertain compliance with this Agreement and its goals. The Grantee acknowledges that the Project records and location are public records.
20. **NONDISCRIMINATION CLAUSE:**
 - a. During the performance of this Agreement, the Grantee and its consultants and contractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, sexual orientation, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family care leave, or genetic information, gender, gender identity, gender expression, or military and veteran status.
 - b. The Grantee, its consultants, and contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
 - c. The Grantee, its consultants, and contractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, § 12990) and the applicable regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.
 - d. The Grantee, its consultants, and contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement, if any.
 - e. The Grantee shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement. Failure by the Grantee to carry out these requirements and applicable requirements of 40 C.F.R. part 33 is a breach of a material provision of this Agreement which may result in its termination.
21. **NO THIRD PARTY RIGHTS:** The parties to this Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or of any duty, covenant, obligation or undertaking established herein.
22. **NOTICE:**
 - a. The Grantee shall notify the State Water Board prior to conducting construction, monitoring, demonstration, or other implementation activities such that State Water Board and/or Regional Water Board staff may observe and document such activities.
 - b. The Grantee shall promptly notify the State Water Board of events or proposed changes that could affect the scope, budget, or work performed under this 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 Water Board, and the State Water Board has given written approval for such change.
 - c. Discovery of any potential archeological or historical resource. Should a potential archeological or historical resource be discovered during implementation of the Project, the Grantee agrees that all work

in the area of the find will cease until a qualified archeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the Deputy Director of the Division has determined what actions should be taken to protect and preserve the resource. The Grantee agrees to implement appropriate actions as directed by the Division.

- d. Discovery of any unexpected endangered or threatened species, as defined in the federal Endangered Species Act. Should a federally protected species be unexpectedly encountered during implementation of the Project, the Grantee agrees to promptly notify the Deputy Director of the Division. This notification is in addition to the Grantee's obligations under the federal Endangered Species Act.
 - e. The Grantee shall notify the State Water Board and USEPA at least ten (10) working days prior to any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by State Water Board's representatives.
 - f. The Grantee shall promptly notify the State Water Board in writing of completion of work on the Project.
 - g. The Grantee shall promptly notify the State Water Board in writing of any cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more and of any circumstance, combination of circumstances, or condition, which is expected to or does delay completion of construction for a period of ninety (90) days or more beyond the estimated date of completion of construction previously provided.
23. PERMITS, CONTRACTING, AND DEBARMENT: The Grantee shall procure all permits and licenses necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. The Grantee shall comply in all material respects with all applicable federal, state and local laws, rules and regulations. The Grantee shall procure all permits, licenses and other authorizations necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. Signed copies of any such permits or licenses shall be submitted to the Division before construction begins. Any contractors, outside associates, or consultants required by the Grantee in connection with the services covered by this Agreement shall be limited to such individuals or firms as were specifically identified and agreed to during negotiations for this Agreement, if any, or as are specifically authorized by the State Water Board's Grant Manager during the performance of this Agreement. Any substitutions in, or additions to, such contractors, associates, or consultants, shall be subject to the prior written approval of the State Water Board's Grant Manager. The Grantee shall not contract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension." The Grantee shall not contract with any individual or organization on USEPA's List of Violating Facilities. The Grantee certifies to the best of its knowledge and belief, that it and its principals (CFR Part 180; 2 CFR Part 1532).
- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department, the California Department of Industrial Relations (DIR), or the Grantee;
 - b. Have not within a three (3)-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and,
 - d. Have not within a three (3)-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.

24. **PREVAILING WAGES AND LABOR COMPLIANCE:** If applicable, 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 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/dlse/PWManualCombined.pdf>.

If the Grantee is a Charter City as defined in Labor Code section 1782, subdivision (d)(2), the Grantee will comply with the requirements of Labor Code section 1782 and Public Code section 2503 as discussed in the following subparts (a) and (b):

- a. **Prevailing Wage:** The Grantee certifies that it is eligible for state funding assistance notwithstanding Labor Code section 1782. Specifically the Grantee certifies that no charter provision nor ordinance authorizes a construction project contractor not to comply with Labor Code's prevailing wage rate requirements, nor, within the prior two years (starting from January 1, 2015 or after) has the city awarded a public works contract without requiring the contractor to comply with such wage rate requirements according to Labor Code section 1782.
 - b. **Labor Agreements:** The Grantee certifies that no charter provision, initiative, or ordinance limits or constrains the city's authority or discretion to adopt, require, or utilize project labor agreements that include all the taxpayer protection antidiscrimination provisions of Public Contract Code section 2500 in construction projects, and that the Grantee is accordingly eligible for state funding or financial assistance pursuant to Public Contract Code section 2503.
25. **PROFESSIONALS:** The Grantee agrees that only licensed professionals will be used to perform services under this Agreement where such services are called for. All technical reports required pursuant to this Agreement that involve planning, investigation, evaluation, design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to Business and Professions Code, sections 6735, 7835, and 7835.1. To demonstrate compliance with California Code of Regulations, title 16, sections 415 and 3065, all technical reports must contain a statement of the qualifications of the responsible registered professional(s). As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.
26. **RECORDS:** Without limitation of the requirement to maintain Project accounts in accordance with generally accepted accounting principles, the Grantee agrees to:
- a. Establish an official file for the Project which shall adequately document all significant actions relative to the Project;
 - b. Establish separate accounts which will adequately and accurately depict all amounts received and expended on this Project, including all grant funds received under this Agreement;
 - c. Establish separate accounts which will adequately depict all income received which is attributable to the Project, especially including any income attributable to grant funds disbursed under this Agreement;
 - d. Establish an accounting system which will adequately depict final total costs of the Project, including both direct and indirect costs;
 - e. Establish such accounts and maintain such records as may be necessary for the state to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations; and,
 - f. If a Force Account is used by the Grantee for any phase of the Project, establish an account that documents all employee hours, and associated tasks charged to the Project per employee.
27. **RELATED LITIGATION:** Under no circumstances may a Grantee use funds from any disbursement under this Agreement to pay costs associated with any litigation the Grantee pursues against the State Water Board or any Regional Water Board. Regardless of the outcome of any such litigation, and notwithstanding

any conflicting language in this Agreement, the Grantee agrees to complete the Project funded by this Agreement or to repay all of the grant funds plus interest.

28. **RIGHTS IN DATA:** The Grantee agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, audio and video recordings, notes, and other written or graphic work produced in the performance of this Agreement shall be in the public domain. Furthermore, the Grantee acknowledges that USEPA and the State Water Board have the right to reproduce, publish, use, and authorize others to reproduce, publish, and use copyrighted works or other data developed under this Agreement for federal purposes. The Grantee may disclose, disseminate and use in whole or in part, any final form data and information received, collected, and developed under this Agreement, subject to appropriate acknowledgement of credit to the State Water Board for financial support. The 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.
29. **STATE REVIEWS AND INDEMNIFICATION:** The parties agree that review or approval of Project applications, documents, permits, plans and specifications or other Project information by the State Water Board is for administrative purposes only and does not relieve the Grantee of its responsibility to properly plan, design, construct, operate, maintain, implement, or otherwise carry out the Project. To the extent permitted by law, the Grantee agrees to indemnify, defend and hold harmless the State Water Board and the State against any loss or liability arising out of any claim or action brought against the State Water Board and/or the State from and against any and all losses, claims, damages, liabilities or expenses, of every conceivable kind, character and nature whatsoever arising out of, resulting from, or in any way connected with (1) the Project or the conditions, occupancy, use, possession, conduct or management of, work done in or about, or the planning, design, acquisition, installation or construction, of the Project or any part thereof; (2) the carrying out of any of the transactions contemplated by this Agreement or any related document; (3) any violation of any applicable law, rule or regulation, any environmental law (including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the California Hazardous Substance Account Act, the Federal Water Pollution Control Act, the Clean Air Act, the California Hazardous Waste Control Law and California Water Code section 13304, and any successors to said laws), rule or regulation or the release of any toxic substance on or near the System; or, (4) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements required to be stated therein, in light of the circumstances under which they were made, not misleading with respect to any information provided by the Grantee for use in any disclosure document utilized in connection with any of the transactions contemplated by this Agreement. To the fullest extent permitted by law, the Grantee agrees to pay and discharge any judgment or award entered or made against the State Water Board and/or the State with respect to any such claim or action, and any settlement, compromise or other voluntary resolution. The provisions of this section shall survive the term of this Agreement.
30. **STATE WATER BOARD ACTION, COSTS, AND ATTORNEY FEES:** The Grantee agrees that any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the State Water Board as a result of breach of this Agreement by the Grantee, whether such breach occurs before or after completion of the Project, and exercise of any remedy provided by this Agreement by the State Water Board shall not preclude the State Water Board from pursuing any legal remedy or right which would otherwise be available. In the event of litigation between the parties hereto arising from this Agreement, it is agreed that each party shall bear its own filing costs and attorney fees.
31. **SUPPLEMENTAL ENVIRONMENTAL PROJECTS:** Grant Funds shall not be used for supplemental environmental projects required by Regional Water Boards.
32. **TERMINATION, IMMEDIATE REPAYMENT, INTEREST:** This Agreement may be terminated by written notice at any time prior to completion of the Project, at the option of the State Water Board, upon violation by the Grantee of any material provision after such violation has been called to the attention of the Grantee and after failure of the Grantee to bring itself into compliance with the provisions of this Agreement within a reasonable time as established by the State Water Board. In the event that the Grantee fails to comply with this Agreement, the State Water Board may recommend that suspension or debarment proceedings be initiated against the Grantee by USEPA as authorized under 2 CFR part 180. In the event of termination, the Grantee agrees, upon demand, to immediately repay to the State Water Board an amount equal to the amount of grant funds disbursed to the Grantee prior to such termination. In the event of termination,

interest shall accrue on all amounts due at the highest legal rate of interest from the date that notice of termination is mailed to the Grantee to the date of full repayment by the Grantee.

33. **TIMELINESS:** Time is of the essence in this Agreement. The Grantee shall proceed with and complete the Project in an expeditious manner.
34. **TRAVEL AND PER DIEM:** 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 by the Grantee. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the Grant Manager.
35. **UNENFORCEABLE PROVISION:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement shall continue to have full force and effect and shall not be affected thereby.
36. **URBAN WATER DEMAND MANAGEMENT** -- If Grantee is an "urban water supplier" as defined by Water Code section 10617, the Grantee must implement water demand management measures approved by the Department of Water Resources according to the requirements of Water Code section 10631.5, subdivision (a)(1).
37. **URBAN WATER SUPPLIER:** If the Grantee is an "urban water supplier" as defined by Water Code section 10617, Grantee must charge each customer for actual water volume measured by water meter according to the requirements of Water Code sections 526 and 527. Section 527 further requires that such suppliers not subject to section 526 install water meters on all municipal and industrial service connections within their service area by 2025.
38. **VENUE:** The State Water Board 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.
39. **WAIVER AND RIGHTS OF THE STATE WATER BOARD:** Any waiver of rights with respect to a default or other matter arising under the Agreement at any time by either party shall not be considered a waiver of rights with respect to any other default or matter. Any rights and remedies of the State provided for in this Agreement are in addition to any other rights and remedies provided by law.
40. **WATER CONSERVATION AND EFFICIENCY PROGRAMS:** The Grantee acknowledges that it has appropriate water conservation and efficiency programs in place, and that this provision constitutes a condition of the grant award. A web link with examples of water conservation and efficiency programs is available at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/conservation.shtml. The Grantee also agrees to comply with the State Water Board's Drought Emergency Water Conservation regulations in sections 863-866 of title 23 of the California Code of Regulations. If applicable, the Grantee agrees to include a discussion of progress and compliance in its reports submitted pursuant to Exhibit B of this Agreement.
41. **WATER RIGHTS:** The Grantee acknowledges that its eligibility for this Grant award is conditioned on its compliance with Water Code section 5103 subdivision (e)(2)(A), if applicable. The Grantee further certifies that it is not required to file a Statement of Diversion and Use pursuant to Water Code section 5101.
42. **WATERSHED MANAGEMENT PLAN CONSISTENCY:** The Grantee certifies that any watershed protection activity undertaken as part of this Project will be consistent with the applicable, adopted, local watershed management plans and the applicable Water Quality Control Plan (Basin Plan and/or Statewide) adopted by a Regional Water Board or the State Water Board, where such plans exist. Any such activity occurring in the San Gabriel and Los Angeles watersheds shall be consistent with the San Gabriel and Los Angeles River Watershed and Open Space Plan as adopted by the San Gabriel and Lower Los Angeles Rivers and Mountain Conservancy and the Santa Monica Mountains Conservancy.
43. **WITHHOLDING OF GRANT DISBURSEMENTS:** The State Water Board may withhold all or any portion of the grant funds provided for by this Agreement in the event that the Grantee has materially violated, or

threatens to materially violate, any term, provision, condition, or commitment of this Agreement; or the Grantee fails to maintain reasonable progress toward completion of the Project.

EXHIBIT D
SPECIAL CONDITIONS

1. The Grantee shall not use Project funds, including Match Funds, to engage in lobbying the federal or state governments or in litigation against the United States or the State of California. The Grantee's Chief Executive Officer agrees to provide a written statement certifying that none of the funds have been used to engage in the lobbying of the federal or state governments or in litigation against the United States or the State of California. The certification is due ninety (90) days after the end of the Project period and shall be submitted with the final report. The Grantee shall comply with 40 C.F.R. part 34, New Restrictions on Lobbying.
2. The Grantee shall comply with Small, Minority, and Women's Business (MBE/WBE) requirements, including, but not limited to the following:
 - a. Include "fair share" percentages in bid documents, and
 - b. Follow the six affirmative steps stated in 40 C.F.R. part 33.

If applicable, the Grantee agrees to report DBE utilization to the Division on the DBE Utilization Report, State Water Board Form DBE UR334.
3. The Grantee shall comply with 40 C.F.R. part 34, New Restrictions on Lobbying, and include language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-recipients submit certification and disclosure forms accordingly. Any recipient of grant funds who makes a prohibited expenditure under 40 C.F.R. part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
4. No grant funds may be used to engage in lobbying of the federal government or in litigation against the United States.
5. The Grantee shall use recycled paper for all reports which are prepared as a part of this Agreement. The Grantee shall comply with the requirements set forth in Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. § 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by USEPA. These guidelines are listed in 40 C.F.R. part 247.
6. The Grantee and any contractors or subcontractors of Grantee shall incorporate, to every extent possible, environmentally sustainable business practices for all work funded by this Agreement. Such practices include, but are not limited to: green meeting principles (e.g., web-based meetings, mass transit options, carpooling, electronic materials, non-disposable supplies, etc.) and conscientious use of paper (e.g., recycled content paper, double-sided printing for all deliverables [including those collected from subrecipients], etc.). When developing materials, the Grantee and any subrecipients must consider waste reduction and recycled content.
7. The salary rate paid to individual consultants retained by the Grantee or the Grantee's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, to be adjusted annually. The Grantee shall report the names and total compensation of each of its five most highly compensated executives for the preceding completed fiscal year, as set forth in the USEPA General Terms and Conditions. This limit applies to consultation services of designated individuals with specialized skills and if the terms of the contract provide the Grantee with the responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. As of January 1, 2015, the rate is \$608.32 per day and \$76.04 per hour. This rate does not include overhead or travel expenses. Sub-agreements with firms or individuals for services which are awarded using the procurement requirements in 40 C.F.R. parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the Grantee with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily

- rate of compensation (see 40 C.F.R. §§ 30.27(b) and 31.36(j)(2)). Any reimbursement for necessary travel and per diem shall be pursuant to Exhibit C.
8. Any and all conferences, meetings, conventions, or training spaces funded in whole or in part by this Agreement shall comply with the Federal Hotel and Motel Fire Safety Act of 1990.
 9. The Grantee shall fully comply with, and require contractors and subcontractors as applicable to comply with, Subpart C of 40 C.F.R. part 32, entitled "Responsibilities of Participants Regarding Transactions."
 10. If this grant includes activities involving the performance or use of environmental instruments, Quality Assurance Project Plans (QAPP) must be developed for these projects. These documents must be submitted and approved by the State Water Board's QA manager before measurement activities are undertaken
 11. The Grantee agrees that water quality data collected under this Agreement shall be delivered to the State Water Board such that it may be entered into the Surface Water Ambient Monitoring Program (SWAMP) database and evaluated to determine the status and trends of aquatic life in California's wadeable streams.
 12. Any animal feedlot operation (AFO) that receives financial assistance pursuant to this grant shall implement a comprehensive nutrient management plan consistent with the USDA NRCS technical guidelines for Comprehensive Nutrient Management Plans.
 13. The Grantee shall assure that any management practices implemented as part of this grant shall be properly maintained for the intended purposes during its life span. Operation includes the administration, management and performance of non-maintenance actions needed to keep the completed practice safe and functioning as intended. Maintenance includes work to prevent deterioration of the practice. This condition applies to all sub-awards funded in whole or in part with grant funds disbursed hereunder. The State Water Board and USEPA retain the right to inspect a practice to ensure this condition is met, and to request a refund if it is not.
 14. The Grantee certifies that this Project will implement activity/ies that contribute to reduced pollutant loads as called for in an existing TMDL or a TMDL that is currently under development.
http://www.waterboards.ca.gov/water_issues/programs/tmdl/index.shtml.
 15. The Grantee certifies that this Project will implement activity/ies that are part of watershed plans that address the USEPA, Region IX required watershed-based plan elements.
 16. The Grantee shall ensure the continued proper operation and maintenance of all management practices that have been implemented in accordance with *Natural Resources Conservation Service's Field Office Technical Guides* (see Appendix B) or other appropriate standards.
 17. The Grantee certifies that a request for waiver or reduction of the 25% or 75% funding match has been granted in accordance with the Clean Water Act Section 319(h) Nonpoint Source 2015 Grant Program Guidelines.
 18. The Grantee certifies that it shall complete this Project no later than JUNE 30, 2018. It acknowledges that this condition is a material condition of this Agreement.
 19. The Grantee certifies that it, its employees, its sub-recipients and its sub-recipients' employees receiving any funds pursuant to this Agreement, shall not engage in severe forms of trafficking in persons during the term of this Agreement; procure a commercial sex act during the term of this Agreement; or used forced labor in the performance of this Agreement or any subcontracts awarded pursuant to this Agreement. The State Water Board may unilaterally terminate this Agreement and full payment will be due immediately, if the Grantee or subgrantee that is a private entity is determined to have violated the foregoing. Trafficking Victims Protection Act of 2000. This shall constitute a condition precedent to this Agreement,
 20. The Grantee certifies that during Federal Fiscal Year 2014-2015 (October 1, 2014, through September 30, 2015), it has not received eighty percent (80%) or more of its gross annual revenue and/or \$25,000,000 or

more in annual gross revenue from federal financial assistance subject to the federal Transparency Act, as defined in Code of Federal Regulations, title 2, section 170.320.

21. The Grantee shall comply with all applicable civil rights statutes and regulations, including Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, section 13 of the CWA, Title IX of the Education Amendments of 1972 (including 40 C.F.R. part 5), and 40 C.F.R. part 7.
22. Any electronic and information technology systems or products funded through this Agreement must be designed to include usability features or functions that accommodate the needs of persons with disabilities (including those who use assistive technology). The Recipient is encouraged to follow guidelines established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194, with respect to enabling individuals with disabilities to participate in its programs supported by this Project.
23. The Grantee certifies that it has submitted their Data Universal Numbering System (DUNS) number to the State Water Board.

Attachment 3

Professional Services Agreement with the Regents of the University of California

**AGREEMENT FOR CONSULTANT SERVICES
BY AND BETWEEN
COUNTY OF HUMBOLDT
AND
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
PROJECT NAME: Elk River Watershed Stewardship Program
PROJECT NUMBER: 251102**

This Agreement, entered into this 6th day of June, 2016, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and The Regents of the University of California, on behalf of Agriculture and Natural Resources Cooperative Extension, 2801 Second Street, Davis, CA 95618, a non-profit public educational institution, hereinafter referred to as "CONSULTANT," is made upon the following considerations:

WHEREAS, COUNTY has entered into a grant agreement (Agreement No. D1513101) with the State Water Resources Control Board to implement the Elk River Watershed Stewardship Program (Stewardship Program), starting on or near May 1, 2016, and proceeding through June 30, 2018; and

WHEREAS, COUNTY, by and through its Department of Public Works – Environmental Services Division, desires to retain the services of CONSULTANT to assist with specified technical and administrative services related to the Stewardship Program; and

WHEREAS, such work involves the performance of professional and technical services of a temporary and occasional character, and COUNTY has no employees available to perform such services and is unable to hire employees for the performance thereof for the temporary period; and

WHEREAS, Pursuant to California Government Code Section 31000, COUNTY may retain independent contractors to perform special services for COUNTY or any department thereof; and

WHEREAS, CONSULTANT has represented that it is qualified to perform said services.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. OBLIGATIONS OF CONSULTANT:

- A. Professional Services. CONSULTANT agrees to furnish professional consulting services in accordance with the criteria, schedule and fiscal requirements set forth in Exhibit A – Scope of Services, Exhibit B – Project Schedule, and Exhibit C – Project Budget, which are attached hereto and incorporated herein by reference. In providing such services CONSULTANT agrees to fully cooperate with the Humboldt County Department of Public Works Director or designee thereof, hereinafter referred to as "Director."
- B. Additional Services. No additional services shall be performed by CONSULTANT prior to the execution of a written amendment to this Agreement and the issuance of a separate "Notice to Proceed" authorizing the performance of such additional services. Any amendments authorizing the performance of additional services shall include a detailed description of such services, the dollar value thereof and the method by which such services shall be compensated.

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2. OBLIGATIONS OF COUNTY:

- A. Provision of Necessary Data and Materials. COUNTY shall provide CONSULTANT with all background data necessary for CONSULTANT to complete the services required hereunder.
- B. COUNTY Representative. COUNTY shall designate a representative with complete authority to transmit instructions and information, receive correspondence, interpret policy and define decisions pertaining to this Agreement. COUNTY's representative shall have overall charge and responsibility of COUNTY's activities and obligations hereunder. All correspondence pertaining to the performance of CONSULTANT's duties and obligations contained herein shall be submitted to COUNTY's representative.
- C. Review of Submitted Materials. COUNTY shall thoroughly review all draft reports, sketches, proposals and other documents submitted by CONSULTANT. COUNTY shall provide CONSULTANT with a written response pertaining to the review of documents submitted by CONSULTANT within three (3) calendar days from the receipt thereof. CONSULTANT shall consider COUNTY's comments and shall use professional judgment in revising reports, information or data accordingly.
- D. Grant Administration. COUNTY shall administer the grant agreement with the State Water Resources Control Board for the Stewardship Program.

3. TERM:

This Agreement shall begin upon execution by both parties and remain in full force and effect until June 15, 2018, unless sooner terminated as provided herein.

4. TERMINATION:

- A. Breach of Contract. If, in the opinion of COUNTY, CONSULTANT fails to adequately perform the services defined in Exhibit A – Scope of Services, or otherwise fails to comply with the terms of this Agreement, or violates any ordinance, regulation or other law applicable to its performance herein, COUNTY shall have the right to cancel or terminate this Agreement immediately, upon written notice.
- B. Without Cause. COUNTY may terminate this Agreement without cause upon thirty (30) days advance written notice. Such notice shall state the effective date of the termination.
- C. Insufficient Funding. COUNTY's obligations under this Agreement are contingent upon the availability of local, state and/or federal funds. In the event such funding is terminated, COUNTY shall, at its sole discretion, determine whether this Agreement shall be terminated. COUNTY shall provide CONSULTANT seven (7) days advance written notice of its intent to terminate this Agreement due to insufficient funding.
- D. Compensation. In the event of any termination of this Agreement, CONSULTANT shall be entitled to compensation for uncompensated services, including non-cancellable obligations, rendered hereunder through and including the effective date of such termination. However, this provision shall not limit or reduce any damages owing to COUNTY resulting from a breach of this Agreement.

5. COMPENSATION:

The maximum amount payable by COUNTY for services rendered, and expenses incurred, by CONSULTANT pursuant to the terms and conditions of this Agreement is Seventy-Six Thousand and Six Hundred and Ninety-Five Dollars (\$76,695).

6. PAYMENT:

CONSULTANT shall submit to COUNTY quarterly progress reports and invoices within 15 days following the end of each calendar quarter (March, June, September and December), which itemize all work completed as of the invoice date. All invoices submitted by CONSULTANT shall be in a format approved by, and shall include backup documentation as specified by, Director and the Humboldt County Auditor-Controller. CONSULTANT shall submit a final undisputed invoice for payment not more than thirty (30) days following the expiration or termination date, if terminated sooner, of this Agreement. Payment for services rendered and expenses incurred hereunder shall be made within thirty (30) days after the receipt of approved invoices.

7. NOTICES:

Any and all notices required to be given pursuant to the terms of this Agreement shall be in writing and served personally, or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

COUNTY: County of Humboldt
Department of Public Works – Environmental Services
Attn: Hank Seemann
1106 Second Street
Eureka, CA 95501

CONSULTANT: University of California Cooperative Extension
Attn: Kathleen P. Nolan, Director Contracts and Grants
2801 Second Street
Davis, CA 95618

8. REPORTS:

CONSULTANT agrees to provide COUNTY with any and all reports which may be required by local, state or federal agencies for compliance with this Agreement. Reports shall be submitted no later than fifteen (15) days after the end of each calendar quarter using the format required by the State of California as appropriate.

9. RECORD RETENTION AND INSPECTION:

A. Maintenance and Preservation of Records. CONSULTANT agrees to timely prepare accurate and complete financial, performance and payroll records relating to the services provided hereunder, and to maintain and preserve said records for at least seven (7) years from the date of final payment under this Agreement, except that if any litigation, claim, negotiation, audit or other action is pending, the records shall be retained until completion and resolution of all issues

arising therefrom. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work performed.

- B. Inspection of Records. Pursuant to California Government Code Section 8546.7, all records, documents, conditions and activities of CONSULTANT, and its subcontractors, related to the services provided hereunder, shall be subject to the examination and audit of the California State Auditor and other duly authorized agents of the State of California for a period of seven (7) years after final payment under this Agreement. CONSULTANT hereby agrees to make such records available during normal business hours to inspection, audit and reproduction by COUNTY and any duly authorized local, state or federal agencies. CONSULTANT's Office of Ethics Compliance and Audit Service locally designated official is responsible for coordination of extramural audits. All examinations and audits conducted under this section shall be strictly confined to those matters connected with the performance of this Agreement.
- C. Audit Costs. In the event of an audit exception or exceptions, the party responsible for not meeting the requirements of the project shall be responsible for the disallowed cost. If the allowable expenditures cannot be determined because CONSULTANT's documentation is nonexistent or inadequate, according to generally accepted accounting practices, the questionable cost shall be disallowed by COUNTY.

10. MONITORING:

CONSULTANT agrees that COUNTY has the right to monitor all activities related to this Agreement, including the right to review and monitor CONSULTANT's records, programs or procedures, with advance notice and during normal business hours, in order to ensure compliance with the terms and conditions of this Agreement. However, COUNTY is not responsible, and will not be held accountable, for overseeing or evaluating the adequacy of the results of services performed by CONSULTANT pursuant to the terms of this Agreement.

11. CONFIDENTIAL INFORMATION:

- A. Disclosure of Confidential Information. In performance of this Agreement, CONSULTANT may receive information that is confidential under local, state or federal law. CONSULTANT hereby agrees to protect all confidential information in accordance with any and all applicable local, state and federal laws and regulations. In order to be eligible for confidential treatment hereunder, confidential information shall be disclosed by COUNTY in writing and designated as "Confidential," at time of disclosure, and any such information disclosed visually or verbally must be stated to be such at the time of disclosure and shall be confirmed in a written summary describing same in reasonable detail that COUNTY shall provide to CONSULTANT within fifteen (15) days after such visual or verbal disclosure.
- B. Continuing Compliance with Confidentiality Laws. The parties acknowledge that federal and state confidentiality laws are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. Each party agrees to promptly enter into negotiations concerning an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the CMIA and any other applicable local, state and federal laws or regulations.

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12. NONDISCRIMINATION COMPLIANCE:

- A. Professional Services and Employment. In connection with the execution of this Agreement, CONSULTANT shall not discriminate in the provision of professional services or against any employee or applicant for employment because of race, religion or religious creed, color, age (over forty (40) years of age), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), political affiliation, military service, or any other classification protected by local, state or federal laws and regulations. Nothing herein shall be construed to require employment of unqualified persons.
- B. Compliance with Anti-Discrimination Laws. CONSULTANT further assures that it will abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, California Welfare and Institutions Code Section 10000, CDSS MPP Division 21, United States Executive Order 11246, as amended, and any other applicable local, state and federal laws and regulations. Practices in hiring, compensation, benefits and firing are among the employment practices subject to this requirement.

13. DRUG-FREE WORKPLACE:

By signing this Agreement, CONSULTANT hereby certifies that CONSULTANT will comply with the requirements of the Drug-Free Workplace Act of 1990 (California Government Code Sections 8350 et seq.), and will provide a drug-free workplace by doing all of the following:

- A. Drug-Free Policy. Publish, as required by California Government Code Section 8355(a)(1), a Drug-Free Policy Statement which notifies employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited, and specifies the actions to be taken against employees for violations.
- B. Drug-Free Awareness Program. Establish, as required by California Government Code Section 8355(a)(2), a Drug-Free Awareness Program which informs employees about the following:
1. The dangers of drug abuse in the workplace;
 2. CONSULTANT's policy of maintaining a drug-free workplace;
 3. Any available counseling, rehabilitation and employee assistance programs; and
 4. Penalties that may be imposed upon employees for drug abuse violations.
- C. Drug-Free Employment Agreement. Ensure, as required by California Government Code Section 8355(a)(3), that every employee who provides services hereunder will:
1. Receive a copy of CONSULTANT's Drug-Free Policy Statement; and
 2. Agree to abide by the terms of CONSULTANT's Drug-Free Policy as a condition of employment.

- D. Noncompliance. Failure to comply with the above-referenced requirements may result in suspension of payments under this Agreement and/or termination thereof, and CONSULTANT may be ineligible for award of future contracts if COUNTY determines that the foregoing certification is false or if CONSULTANT violates the certification by failing to carry out the above-referenced requirements.

14. INDEMNIFICATION:

The parties agree, to the fullest extent permitted by law, to hold harmless, defend and indemnify the other party, its agents, officers, officials, employees and volunteers from and against any and all claims, demands, losses, damages, liabilities, expenses and costs of any kind or nature, including, without limitation, reasonable attorney fees and other costs of litigation, arising out of or in connection with this Agreement, but only in proportion to and to the extent such claims, demands, losses, damages, liabilities, expenses, reasonable attorney fees and other costs of litigation are caused by or result from the negligent or intentional acts or omissions of the indemnifying party.

15. INSURANCE REQUIREMENTS:

This Agreement shall not be executed by COUNTY, and CONSULTANT is not entitled to any rights hereunder, unless certificates of insurance or other sufficient proof that the following provisions have been complied with, are filed with the Clerk of the Humboldt County Board of Supervisors.

- A. General Insurance Requirements. Without limiting CONSULTANT's indemnification obligations provided for herein, CONSULTANT shall, and shall require that all subcontractors hereunder, take out and maintain, throughout the entire period of this Agreement, and any extended term thereof, the following policies of insurance, placed with insurers authorized to do business in the State of California with a current A.M. Bests rating of no less than A; VII or its equivalent, against personal injury, death and property damage which may arise from, or in connection with, the activities of CONSULTANT, its agents, officers, directors, employees, licensees, invitees, assignees and subcontractors:

1. Comprehensive or Commercial General Liability Self-Insurance at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence form CG0001), in an amount of Two Million Dollars (\$2,000,000) per occurrence for any one incident, including, but not limited to, personal injury, death and property damage. If a general aggregate limit is used, such limit shall apply separately hereto or shall be twice the required occurrence limit. CONSULTANT is self-insured with respect to general liability insurance and will file a certificate of self-insurance with the Clerk of the Humboldt County Board of Supervisors
2. Automobile/Motor Liability Insurance with a limit of liability not less than One Million Dollars (\$1,000,000) combined single limit coverage. Such insurance shall include coverage of all owned, non-owned and hired vehicles. Said coverage shall be at least as broad as Insurance Service Offices Form Code 1 (any auto).
3. Workers' Compensation Insurance, as required by the California Labor Code, with statutory limits and Employers Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000) per accident for bodily injury or disease. CONSULTANT is self-insured with respect to workers' compensation insurance and will file a certificate of self-insurance, with the Clerk of the Humboldt County Board of Supervisors.

4. Professional Liability Insurance – Error and Omission Coverage, including coverage in an amount no less than Two Million Dollars (\$2,000,000) for each occurrence. Said insurance shall be maintained for the statutory period during which CONSULTANT may be exposed to liability.

B. Special Insurance Requirements. Said policies shall, unless otherwise specified herein, be endorsed with the following provisions:

1. The Comprehensive or Commercial General Liability Self-Insurance Policy shall provide that COUNTY, its agents, officers, officials, employees and volunteers, are covered as additional insureds for liability arising out of the operations performed by or on behalf of CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its agents, officers, officials, employees and volunteers. Said policy shall also contain a provision stating that such coverage:
 - a. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to as “XCU Hazards.”
 - d. Is the primary insurance with regard to COUNTY.
 - c. Does not contain a pro-rata, excess only and/or escape clause.
 - d. Contains a cross liability, severability of interest or separation of insureds clause.
2. The above-referenced policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY in accordance with the notice provisions set forth herein. It is further understood that CONSULTANT shall not terminate such coverage until COUNTY receives adequate proof that equal or better insurance has been secured.
3. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer’s liability.
4. For claims related to this Agreement, CONSULTANT’s insurance is the primary coverage to COUNTY, and any insurance or self-insured programs maintained thereby are excess to CONSULTANT’s insurance and will not be used to contribute therewith.
5. Any failure to comply with the provisions of this Agreement, including breach of warranties, shall not affect coverage provided to COUNTY, its agents, officers, officials, employees and volunteers.
6. CONSULTANT shall furnish COUNTY with certificates and original endorsements effecting the required coverage prior to execution of this Agreement. If CONSULTANT does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance, and CONSULTANT agrees to pay the cost thereof. COUNTY is also hereby authorized to

deduct the cost of said insurance from the monies owed to CONSULTANT under this Agreement.

- C. Insurance Notices. Any and all insurance notices required to be given pursuant to the terms of this Agreement shall be sent to the addresses set forth below in accordance with the notice provisions described herein.

COUNTY: County of Humboldt
Attn: Risk Management
825 Fifth Street, Room 131
Eureka, CA 95501

County of Humboldt
Department of Public Works – Environmental Services
Attn: Hank Seemann
1106 Second Street
Eureka, California, 95501

CONSULTANT: University of California Cooperative Extension
Attn: Kathleen P. Nolan, J.D., Director, Contracts and Grants
2801 Second Street
Davis, CA 95618

16. RELATIONSHIP OF PARTIES:

It is understood that this Agreement is by and between two independent contractors and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or any other similar association. Both parties further agree that CONSULTANT shall not be entitled to any benefits to which COUNTY employees are entitled, including, but not limited to, overtime, retirement benefits, leave benefits or workers' compensation. CONSULTANT shall be solely responsible for the acts or omissions of its agents, officers, directors, employees, licensees, invitees, assignees and subcontractors.

17. THIRD PARTY BENEFICIARIES:

CONSULTANT shall require that all subcontractors hereunder agree to be bound by the terms and conditions of this Agreement as applicable. However, nothing in this provision shall operate to confer any rights, remedies, obligations or liabilities upon any third parties.

18. COMPLIANCE WITH APPLICABLE LAWS:

CONSULTANT agrees to comply with all local, state and federal laws and regulations applicable to the services covered by this Agreement. CONSULTANT further agrees to comply with all applicable local, state and federal licensure and certification requirements.

19. PROVISIONS REQUIRED BY LAW:

This Agreement is subject to any additional local, state and federal restrictions, limitations or conditions that may affect the provisions, terms or funding of this Agreement. This Agreement shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend the

pertinent section to make such insertion or correction.

20. SEVERABILITY:

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

21. ASSIGNMENT:

CONSULTANT shall not delegate its duties or assign its rights hereunder, either in whole or in part, without COUNTY's prior written consent. Any assignment by CONSULTANT in violation of this provision shall be void, and shall be cause for immediate termination of this Agreement. This provision shall not be applicable to service agreements or other arrangements usually or customarily entered into by CONSULTANT to obtain supplies, technical support or professional services.

22. AGREEMENT SHALL BIND SUCCESSORS:

All provisions of this Agreement shall be fully binding upon, and shall inure to the benefit of, the parties and to each of their heirs, executors, administrators, successors and assigns.

23. NO WAIVER OF DEFAULT:

A. General Waivers. The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

B. Payment. In no event shall any payment by COUNTY constitute a waiver of any breach of this Agreement or any default which may then exist on the part of CONSULTANT. Nor shall such payment impair or prejudice any remedy available to COUNTY with respect to the breach or default. COUNTY shall have the right to demand repayment of, and CONSULTANT shall promptly refund, unless otherwise disputed in accordance with Article 31 below, any funds disbursed to CONSULTANT, which in the judgment of COUNTY were not expended in accordance with the terms of this Agreement.

24. NON-LIABILITY OF COUNTY OFFICIALS AND EMPLOYEES:

No official or employee of COUNTY shall be personally liable for any default or liability under this Agreement.

25. AMENDMENT:

No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

26. STANDARD OF PRACTICE:

CONSULTANT certifies that it has the degree of learning and skill ordinarily possessed by reputable professionals practicing in similar localities in the same profession and under similar circumstances. CONSULTANT's duty is to exercise such care, skill and diligence as professionals engaged in the

same profession ordinarily exercise under like circumstances. It is hereby understood that COUNTY's acceptance of the services performed by CONSULTANT hereunder shall not operate as a waiver or release of any breach of this Agreement.

27. TITLE TO INFORMATION AND DOCUMENTS:

The CONSULTANT agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, audio and video recordings, notes, and other written or graphic work produced in the performance of this Agreement shall be in the public domain. Furthermore, the CONSULTANT acknowledges that COUNTY, USEPA and the State Water Board have the right to reproduce, publish, use, and authorize others to reproduce, publish, and use copyrighted works or other data developed under this Agreement for federal purposes. The CONSULTANT may disclose, disseminate and use in whole or in part, any final form data and information received, collected, and developed under this Agreement, subject to appropriate acknowledgement of credit to the State Water Board for financial support. The CONSULTANT shall not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so.

28. ADVERTISING AND MEDIA RELEASE:

COUNTY and CONSULTANT each agree not to use the name of the other party or its employees in any advertisement, press release or publicity with reference to this Agreement, without prior written approval of the other party, and such approval will not be unreasonably or untimely withheld. CONSULTANT shall inform COUNTY of all requests for interviews by media related to this Agreement before such interviews take place; and COUNTY is entitled to have a representative present at such interviews. All notices required by this provision shall be given to Director. Nothing herein shall restrict either party's right to disclose the existence of this Agreement, the identity of the parties, or the nature and scope of the project.

29. PUBLICATIONS:

Each party shall have the right to publish and disseminate information derived from the performance of work under this Agreement. Qualification for authorship shall be in keeping with generally accepted criteria. An acknowledgement of COUNTY's support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project.

30. SUBCONTRACTS:

CONSULTANT shall obtain prior written approval from COUNTY before subcontracting any of the services to be delivered hereunder. Any and all subcontracts will be subject to all applicable provisions of this Agreement. CONSULTANT shall remain legally responsible for the performance of all terms and conditions of this Agreement, including work performed by third parties under subcontracts, whether approved by COUNTY or not.

31. DISPUTE, JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California. COUNTY and CONSULTANT shall make every reasonable effort to resolve all issues or disputes that may arise under this Agreement fairly by negotiation without litigation, if practicable. COUNTY and CONSULTANT agree to negotiate in good faith to reach a mutually agreeable resolution of such dispute within a reasonable period of time. If good faith negotiations are unsuccessful, COUNTY

and CONSULTANT agree that they may resolve the dispute by mediation, arbitration or litigation. Venue for litigation shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

32. ATTORNEY FEES:

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this Agreement from being performed, the prevailing party in said action or proceeding shall be entitled to recover court costs and reasonable attorneys' fees, to be fixed by the court, and such recovery shall include court costs and attorney's fees on appeal, if applicable. As used herein, "prevailing party" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

33. SURVIVAL:

The duties and obligations of the parties set forth in Sections 4(D), 9, 11 and 14 shall survive the expiration or termination of this Agreement.

34. CONFLICTING TERMS OR CONDITIONS:

In the event of any conflict in the terms or conditions set forth in any other agreements in place between the parties hereto and the terms and conditions set forth in paragraphs 1 through 39 of this Agreement, paragraphs 1 through 39 of this Agreement shall have priority.

35. INTERPRETATION:

This Agreement, as well as its individual provisions, shall be deemed to have been prepared equally by both of the parties hereto, and shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

36. INDEPENDENT CONSTRUCTION:

The titles of the sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

37. FORCE MAJEURE:

Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.

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38. ENTIRE AGREEMENT:

This Agreement contains all of the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto. In addition, this Agreement shall supersede in its entirety any and all prior agreements, promises, representations, understandings and negotiations, whether oral or written, concerning the same subject matter.

39. AUTHORITY TO EXECUTE:

Each person executing this Agreement represents and certifies that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party represents and certifies to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date written above.

UNIVERSITY OF CALIFORNIA COOPERATIVE EXTENSION:

By: 

Date: 6.6.16

Name: Wendy Ernst ^{KIP}

Title: Contracts & Grants Officer

COUNTY OF HUMBOLDT:

By: 

Date: 5/24/16

Mark Lovelace
Chair, Humboldt County Board of Supervisors

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By: 
Risk Analyst

Date: 6/28/16

LIST OF EXHIBITS:

- Exhibit "A" – Scope of Services
- Exhibit "B" – Project Schedule
- Exhibit "C" – Project Budget

EXHIBIT A
SCOPE OF SERVICES
Elk River Watershed Stewardship Program

The scope of work from the Grant Agreement is provided below, with annotations (in bold and underline) identifying the responsibilities of the University of California Cooperative Extension.

1. Project Management

- 1.1 Provide all technical and administrative services as needed for Project completion; monitor, supervise, and review all work performed; and coordinate budgeting and scheduling to ensure the Project is completed within budget, on schedule, and in accordance with approved procedures, applicable laws, and regulations.
- 1.2 Notify the Grant Manager at least fifteen (15) working days in advance of upcoming meetings, workshops, and trainings.

2. Steering Committee Activities

- 2.1 Convene the Elk River Stewardship Group steering committee that includes staff from Humboldt County, the University of California Cooperative Extension, California Trout, Inc., the United States Department of Agriculture-Natural Resources Conservation Service, and the North Coast Regional Water Board. Submit the list of members with their organizational affiliation and their roles and responsibilities to the Grant Manager.
- 2.2 Conduct a minimum of twenty-four (24) steering committee meetings to solicit input throughout the Project. Submit the agendas, meeting minutes, and sign-in sheets to the Grant Manager.
 - **UC-CE to participate in steering committee meetings**
- 2.3 Develop an operating agreement to address the purpose and vision and facilitate the effective implementation of the Stewardship Program. Submit the operating agreement to the Grant Manager.
 - **UC-CE to serve as lead author for operating agreement, with assistance from steering committee**
- 2.4 Develop, and update as necessary, a schedule of activities, deliverables, and funding sources for all Stewardship Program tasks identified in this Project, as well as the Elk River Recovery Assessment (Agreement 13-087-110), and the Elk River Sediment Remediation Pilot Implementation Projects (2015 Timber Fund PIN 32144). Submit the schedule and any updates to the Grant Manager for review and approval.
 - **County to serve as lead for Task 2.4; UC-CE to assist by providing relevant information as appropriate**
- 2.5 Develop a website that contains an overview of the Stewardship Program, maps, web links, and other appropriate documents that educate stakeholders on activities being conducted or proposed in the Watershed. Submit the web link, initial homepage, and summary of changes in the associated quarterly report.
 - **UC-CE to serve as lead for website development and maintenance**

3. Stakeholder Outreach and Coordination

- 3.1 Prepare a watershed-wide property ownership map and potential stakeholder contact list including community members, residents, scientists, land managers, and regulatory agencies and submit the list and information to the Grant Manager.

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- **UC-CE to assist County with ownership map and stakeholder contact list.**
- 3.2 Prepare, and update as needed, a newsletter that identifies the Elk River's current conditions, issues and problems, TMDL goals, and the goals and schedule of the Stewardship Program and distribute at community meetings, post on the Stewardship Program website, and email lists. Submit a copy of the newsletter(s) to the Grant Manager.
- **UC-CE to serve as lead author for newsletter(s)**
- 3.3 Prepare a statement of principles and expectations to promote stakeholder participation in the Elk River Stewardship Group and submit to the Grant Manager.
- **UC-CE to serve as lead author for principles and expectations**
- 3.4 Assess the potential stakeholder contact list in Item 3.1, evaluate representation objectives and needs, and invite stakeholders to participate in the Stewardship Program in accordance with the principles and expectations prepared in Item 3.3. Submit the list of identified stakeholders to the Grant Manager.
- **UC-CE to assist County with stakeholder evaluation and outreach**
- 3.5 Convene a minimum of three (3) meetings to inform stakeholders of Stewardship Program goals and to develop a shared vision for the desired future conditions of the Elk River Watershed.
- **UC-CE to assist County with planning and conducting stakeholder meetings**
- 3.6 Organize three workgroups to focus on specific elements of the implementation strategies described in Item 4, 5, and 6.
- 3.6.1 Convene and facilitate a minimum of eight (8) meetings with the Health and Safety Workgroup, with at least four (4) meetings focused on water supply issues and four (4) meetings focused on nuisance flooding and road access issues.
- 3.6.2 Convene and facilitate minimum of eight (8) meetings with the Sediment Remediation Workgroup focused on excess sediment remediation, improved floodwater conveyance, sediment transport, and ecosystem function. Two (2) of the eight (8) meetings shall include presentations on outputs of the Elk River Recovery Assessment Plan, as described in Agreement No. 13-087-110 between the State Water Board and California Trout, Inc.. At least one (1) of the eight (8) meetings will include a design charrette process focused on sediment remediation issues.
- 3.6.3 Convene and facilitate a minimum of six (6) meetings with the Science and Monitoring Coordination Workgroup focused on evaluating water quality, sediment, and flow monitoring efforts and opportunities to enhance effectiveness.
- **UC-CE to serve lead facilitator role for workgroup meetings organized under Task 3.6**
- 3.7 Coordinate additional meetings with individual stakeholders and landowners as needed.
- **UC-CE to assist with stakeholder and landowner meetings as appropriate**
- 3.8 Submit the agendas, meeting minutes, sign-in sheets, and handouts of all stakeholder and workgroup meetings to the Grant Manager.
- **UC-CE to serve lead role preparing and compiling meeting materials**
4. Action Plan for Flooding-Related Community Health and Safety Projects
- 4.1 Identify potential projects to address drinking water and agricultural water needs where water supply is challenged due to sediment deposition, establish criteria for evaluating such projects, and submit the list of potential projects and criteria to the Grant Manager and steering committee.

- 4.2 Evaluate the potential water supply projects using the criteria described in Item 4.1, prepare a water supply strategy for subsequent implementation, and submit the strategy to the Grant Manager and steering committee.
- 4.3 Prepare concept proposals for subsequent implementation projects to reduce impacts from nuisance flooding on Elk River Road, Wrigley Road, Elk River Courts, Berta Road, and Zanes Road, including feasibility of road/bridge improvement projects, alternative road access routes for emergency and non-emergency conditions, and associated budget cost estimates.
- 4.4 Evaluate the concept proposals described in Item 4.3, and develop a project study report that documents the concept proposals and is consistent with the standard California Department of Transportation format. Submit the project study report to the Grant Manager and steering committee.
- 4.5 Develop a Health and Safety Action Plan that describes the actions necessary to implement the water supply strategy described in Item 4.2 and the project study report described in Item 4.4, preliminary cost estimates, and a funding plan.
- 4.6 Submit the action plan to the steering committee for review and the Grant Manager for review and approval.

- **UC-CE to serve lead facilitator role for workgroup meetings organized under Task 4**

5. Action Plan for Sediment Remediation

- 5.1 Identify river reach-specific potential remediation areas, project types, and individual projects using information provided by the Elk River Recovery Assessment Plan and stakeholders, establish criteria, and submit the list of project types, individual projects, and criteria used to the Grant Manager and Steering Committee.
- 5.2 Evaluate the potential remediation areas, project types, and individual projects using the criteria established in Item 5.1 to identify two (2) preferred remediation strategies, including detailed descriptions of specific actions or sets of actions. Submit the strategies to the Grant Manager and steering committee for review and to California Trout, Inc. for inclusion in their technical feasibility assessment under the Elk River Recovery Assessment.
- 5.3 Develop a Sediment Remediation Action Plan that evaluates and broadens the results of the Elk River Recovery Assessment's technical feasibility assessment, using the results from Agreement 13-087-110, to consider social, regulatory, and funding feasibility strategies and includes conceptual maps and schematics, a narrative project description, preliminary cost estimates, a funding plan, and a description of the actions necessary to implement the sediment remediation strategy.
 - 5.3.1 Submit the Sediment Remediation Action Plan to the steering committee for review and to the Grant Manager for review and approval.

- **UC-CE to serve lead facilitator role for workgroup meetings organized under Task 5**

6. Action Plan for Science and Monitoring Coordination

- 6.1 Compile readily available reports, monitoring results, and data and post monitoring data and reports on the Program website.
 - **UC-CE to serve lead role for Task 6.1**
- 6.2 Develop a framework for monitoring goals, objectives, and parameters and evaluate the sufficiency of the current monitoring network for monitoring long-term trends, effectiveness of remediation actions, and other purposes. Identify how existing and new data will be assessed, shared, and used to guide projects and activities.

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- **UC-CE to serve lead role for Task 6.2**
- 6.3 Prepare a science and monitoring implementation strategy and submit to the steering committee and the Grant Manager.
- **UC-CE to serve as lead author for the science and monitoring implementation strategy**
- 6.4 Develop a Coordinated Science and Monitoring Action Plan that describes the actions necessary to implement the monitoring strategy in Item 6.3 and include preliminary cost estimates.
- **UC-CE to serve as lead author for Coordinated Science and Monitoring Action Plan**
- 6.5 Submit the Action Plan to the steering committee for review and to the Grant Manager for review and approval.

EXHIBIT B
PROJECT SCHEDULE
Elk River Watershed Stewardship Program

May 1, 2016	Anticipated Contract Start Date
June 30, 2016	First Stakeholder Meeting
Summer 2016	Launch working groups
December 2017	Complete Strategy documents
March 2018	Complete Action Plans
June 15, 2018	Project Completion

Note:

- Dates are subject to change by mutual agreement with County and University of California Cooperative Extension

EXHIBIT C
PROJECT BUDGET
Elk River Watershed Stewardship Program

Line Item Budget	
Items	Total
Salary	\$47,198
benefits	\$25,497
Travel	\$4,000
Total Direct Costs	\$76,695

Budget Justification

Personnel:

Position to be determined. For budget planning purposes assumes a Staff Research Associate II with a projected annual salary of \$46,500 at 50% effort. The salary includes a projected 3% increase effective 7/1/2017. The federally approved composite fringe benefit rate is 50% for the period of 5/1/16 – 6/30/16 and includes projected increases to 53.3% effective 7/1/16 and 54.3% 54.3% effective 7/1/17. Projected composite fringe benefit rates are approved annually by the federal government and as such are subject to change.

Travel: Travel costs are budgeted at \$2,000 per year for project meetings. Any reimbursement for necessary travel and per diem shall be at CONSULTANT'S usual rates per State Contracting Manual Section 3.18. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the SWRCB.

Attachment 4

Elk River Watershed Stewardship Program Brochure

WHAT IS THE FORMAT

There will be opportunities to share your ideas through participation in public meetings, smaller working groups, workshops, and field trips to help develop solutions and identify potential projects (e.g. remediation and restoration actions, flood hazard mitigation, monitoring plans, and more).

To join the mailing list, learn more about the Program, or to contact one of the project leads please visit: http://ucanr.edu/elk_river_stewardship

CAL TROUT : Darren Mierau, Dave Heaton

COUNTY OF HUMBOLDT: Hank Seemann, Cybelle Immitt, Bob Vogt

NATURAL RESOURCES CONSERVATION SERVICE : Jonathan Schultz

NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD: Clayton Creager

UNIVERSITY OF CALIFORNIA COOPERATIVE EXTENSION Yana Valachovic, Dan Stark



Funding for initiation of the Stewardship Program has been provided by the U.S. Environmental Protection Agency (USEPA) and the State Water Resources Control Board (State Water Board). The contents of this document do not necessarily reflect the views and policies of the USEPA or the State Water Board.



Photo courtesy of Matt House

TO JOIN THE MAILING LIST CONTACT:

Yana Valachovic

UC Cooperative Extension

5630 South Broadway

Eureka, CA 95503

Phone: 707-445-7351

Fax: 707-444-9334

E-mail: yvala@ucanr.edu

Website: http://ucanr.edu/elk_river_stewardship

ELK RIVER WATERSHED STEWARDSHIP



Stewardship Vision

The Program will create opportunities for partnerships and projects to improve conditions in the Elk River Watershed.

The Program will provide an open, transparent, and non-regulatory process that is sensitive to diverse community needs and interests.

The Program seeks to cultivate relationships and to develop strategies to renew the health and function of the watershed, effect changes in infrastructure and access, and sustain a vibrant working landscape.



ELK RIVER STEWARDSHIP PROGRAM

THE PROGRAM IS:

- ⇒ An open and transparent venue for residents, land managers, and other stakeholders to develop solutions and identify potential projects (remediation and restoration actions, flood hazard mitigation, monitoring plans, and more)
- ⇒ Looking for near-term opportunities for improvements around water quality, nuisance flooding, infrastructure, fisheries, drinking water supply, and coordinated monitoring
- ⇒ Supportive of voluntary, non-regulatory solutions
- ⇒ Aiming to build an organizational structure to support long-term collaboration in the watershed
- ⇒ A process to develop implementation strategies and actions that can be used to secure funding and attract support

THE PROGRAM IS NOT:

- ⇒ Intended to mediate or adjudicate long-standing conflicts
- ⇒ A framework for enforcing regulatory actions
- ⇒ A tool for delivering predetermined outcomes

PROGRAM GOALS

1. Seek common ground among diverse participants
2. Identify strategies and solutions to:
 - ⇒ Improve the hydrologic function, water quality and habitat conditions of Elk River
 - ⇒ Reduce nuisance flooding and improve transportation routes during high water conditions
 - ⇒ Improve residential and agricultural water supplies
3. Promote coordinated science and monitoring



Visit
http://ucanr.edu/elk_river_stewardship
 to learn more!

WHO'S INVOLVED

Everyone is invited. The Program will be guided through 2018 by a Steering Committee, that includes the County of Humboldt, UC Cooperative Extension, CalTrout, the Natural Resources Conservation Service, and the North Coast Regional Water Quality Control Board.

WHAT TO EXPECT

The Elk River Watershed Stewardship Program offers an opportunity for the community and stakeholders to provide input and contribute towards enhancing watershed conditions. Participation is voluntary. Participants can expect to be heard and help develop achievable solutions over the next two years.

