

STATE COASTAL CONSERVANCY

CALIFORNIA SEA OTTER FUND

PROPOSAL SOLICITATION



Grants Funded by the
California Sea Otter Fund

Applications due September 9, 2016

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Exhibit 1: Acknowledgement of Terms and Conditions

Exhibit 2: Sample Grant Agreement

I. Introduction

A. State Coastal Conservancy's Sea Otter Recovery Program

The State Coastal Conservancy ("Conservancy") is a state agency, established in 1976, to work proactively with local communities to implement multi-benefit projects that protect and enhance coastal resources. The Conservancy works along the entire length of California's coast, within the watersheds of rivers and streams that extend inland from the coast, and throughout the nine-county San Francisco Bay Area.

The California Sea Otter Fund is one of the state's voluntary tax check-off funds that allows taxpayers to voluntarily contribute additional money for use towards the recovery of California sea otter populations. Approximately 50% of the revenues are allocated to the Coastal Conservancy for "competitive grants and contracts to public agencies and nonprofit organizations for research, science, protection, projects, or programs related to the Federal Sea Otter Recovery Plan or improving the nearshore ocean ecosystem, including, but not limited to, program activities to reduce sea otter mortality, and for public outreach activities that encourage taxpayers to make contributions by voluntary checkoff on a tax return to the California Sea Otter Fund. The projects or programs may also address pathogens and water and wastewater treatment technologies."

Each year, the Conservancy solicits proposals for the annual appropriation from the fund. This year the Conservancy has approximately \$118,000 available for projects that meeting the fund's objectives.

B. Solicitation Schedule

The schedule for the California Sea Otter Fund solicitation is as follows:

Solicitation Released	July 21, 2016
Proposals due	September 9, 2016
Evaluation	September 9-30, 2016
Board Meeting	December 1, 2016

It is anticipated that the 2017 Sea Otter Recovery grants will be awarded at a Coastal Conservancy's December 1, 2016 meeting.

C. Grant Application

Applicants should submit a grant application, including all sections, by 5 p.m., Friday, July 21, 2016. The Conservancy reserves the right, at its sole discretion, to review applications submitted after the deadline.

D. Questions

Please contact Trish Chapman at Trish.Chapman@scc.ca.gov or 510-286-0749 with questions regarding this solicitation.

II. Solicitation Guidelines

A. Solicitation Priorities

Coastal Conservancy grants funded by the California Sea Otter Fund can be used for a variety of activities related to sea otter recovery and improving the nearshore ecosystem. Conservancy priorities for the funding are as follows:

- Plan and implement projects to improve or expand sea otter habitat
- Reduce environmental stressors impacting sea otters
- Implement critical recovery actions of the Federal Sea Otter Recovery Plan
- Research focusing on ways to improve or expand sea otter habitat or reduce stressors

Matching funds are not required; however, leverage is one of the Conservancy's project evaluation criteria so the amount of matching funds will be considered in our proposal evaluation.

B. Eligible Grantees

Eligible applicants for Proposition 1 grant funding from the Conservancy are:

- Public agencies
- Any private, nonprofit organization that qualifies under Section 501(c) (3) of the United States Internal Revenue Code, and whose purposes are consistent with the Conservancy's enabling legislation (Division 21 of the Public Resources Code)
- Indian Tribes that are either federally recognized or listed on the Native Heritage Commission's California Tribal Consultation List.

C. Grant Period

The eligible grant period is from February 1, 2017 to January 31, 2019. No extensions beyond this date will be possible.

D. Conservancy Required Project Selection Criteria

The Conservancy has adopted [Project Selection Criteria](#), last updated in October 2014, which set forth the evaluation criteria that the Conservancy uses for all of its grant programs. To be eligible for Conservancy funding, a project must address the Conservancy's required project selection criteria:

- **Promotion of the Conservancy's statutory programs and purposes** (Division 21 of the Public Resources Code).
- **Consistency with purposes of the funding source** (the California Sea Otter Fund).

- **Promotion and implementation of state plans and policies** (specific plans and policies and the specific goals or objectives within those plans and policies that would be furthered by the project).
- **Support from the public.**
- **Location** (must benefit coastal area, ocean resources, or the San Francisco Bay or Santa Ana River regions).
- **Need** (desired project or result will not occur without Conservancy participation).
- **Greater-than-local interest.**
- **Sea level rise vulnerability.** (Consistent with Executive Order S-13-08, for new projects located in areas vulnerable to future sea level rise, planning shall consider a range of sea level rise scenarios in order to assess project vulnerability and, to the extent feasible, reduce expected risks and increase resiliency to sea level rise.)

Additional Criteria

- Urgency
- Resolution of more than one issue
- Leverage
- Conflict resolution
- Innovation
- Readiness
- Cooperation

E. Environmental Documents and Permits

The Conservancy is required to comply with the California Environmental Quality Act (CEQA). Grant applicants should consider whether their proposed project will trigger the need for an environmental impact report or negative declaration or whether a CEQA exemption applies. How CEQA applies and the status of CEQA compliance should be addressed in the grant application.

III. Grant Application Process and Timeline

A. Project Solicitation Period

The Proposals Solicitation period for this round of funding will be from July 21 until September 9, 2016. Grant applications must be submitted during the solicitation period.

Grant applications must be received by 5pm on September 9, 2016.

B. Grant Application

The grant application form and instructions for completing it are posted on the Conservancy's. Completed applications should be emailed to Trish.Chapman@scc.ca.gov. If you are unable to email your application, you may send the electronic files on a CD or other common electronic storage device.

Mail the files to: Trish Chapman, State Coastal Conservancy, 1330 Broadway, Suite 1300, Oakland, CA 94612.

All information that you submit is subject to the unqualified and unconditional right of the Conservancy to use, reproduce, publish, or display, free of charge. Please indicate if crediting is requested for any of the photos and/or maps.

A complete application will consist of the following files/documents:

- [Grant Application](#) including:
 - Cover Page
 - Project Description
 - Budget and Schedule
 - Additional Information
 - Maps and Photos, as applicable
- Acknowledgement of Standard Terms and Conditions (Exhibit 1)
- For Nonprofit Organizations, please submit completed [Nonprofit Organization Pre-Award Questionnaire](#)

The application requires the following information.

- 1. Project Description** – Provide a clear, detailed description of the project proposed for Conservancy funding. The project description should include the following sections:
 - a. **Need for the project.** Describe the specific problems, issues, or unserved needs the project will address.
 - b. **Goals and objectives.** The goals and objectives should clearly define the expected outcomes and benefits of the project.
 - c. **Project Description.** A brief description of what the project will accomplish and the specific work that will be done.
 - d. **Site Description.** Describe the project site or area, including site characteristics that are tied to your project objectives (i.e.: for acquisition of habitat, describe current vegetation assemblages, condition of habitats, known wildlife migration corridors, etc.). When relevant, include ownership and management information.
 - e. **Specific Tasks.** Identify the specific tasks that will be undertaken and the work that will be accomplished for each task.
 - f. **Work Products.** List the specific work products or other deliverables that the project will result in.
 - g. **Measuring Success.** For projects involving restoration, construction or land acquisition, describe the plan for monitoring, evaluating and reporting project effectiveness, and implementing adaptive management strategies if necessary. Who will be responsible for funding and implementing ongoing management and monitoring?
- 2. Preliminary Budget and Schedule** – The preliminary budget and schedule must include a line item for every task identified in the project description. For each task, applicants should provide the estimated completion date, estimated total cost of the task, amount requested from the Conservancy, and amount that will be provided by other funding sources. The task list in the

Preliminary Budget and Schedule must match the task list provided in the project description. Please indicate the source of matching funds included in the budget.

3. **Project Graphics:** Provide the following project graphics with your application. Project maps and design plans should be combined into one pdf file with a maximum size of 10MB. Project photos should be provided in jpg format. Project graphics may not be applicable to all proposals for California Sea Otter Fund grants; for instance, some research grants.
 - **Regional Map** -- Clearly identify the project's location in relation to prominent area features and significant natural and recreational resources, including regional trails and protected lands.
 - **Site-scale map** – Show the location of project elements in relation to natural and man-made features on-site or nearby. Any key features discussed in project description should be shown.
 - **Design Plan** – Construction projects should include one or more design drawings or graphics indicating the intended site improvements.
 - **Site Photos** – One or more clear photos of the project site.
4. **Additional Information** – These questions are to help reviewers determine how well the application meets the Conservancy's evaluation criteria.

Applications should be emailed to the Conservancy (Trish.Chapman@scc.ca.gov). If the combined size of all the files is greater than 25 MB, please send files in separate email messages (email messages over 25 MB in size will be rejected by our server).

C. Grant Awards

Grants will be awarded once a project is approved by the Coastal Conservancy Board at a public meeting. Conservancy staff will determine which qualified applications to recommend to the Conservancy Board for funding and the amount of funding to recommend. Staff recommendations will be based on the solicitation priorities (II.A., above), the total amount of California Sea Otter Fund funding available, the urgency of the project relative to other eligible projects, the Conservancy's Strategic Plan, and the application of the Conservancy's Required and Additional Project Selection Criteria.

It is anticipated that this year's California Sea Otter Fund grants will be considered at the Conservancy's December 1, 2016 meeting. Conservancy staff will prepare a report for the recommended grants. The staff report will describe the recommended projects and explain each is consistent with the Conservancy's enabling legislation, the Conservancy Program Guidelines, the Conservancy's Strategic Plan and the evaluation criteria

D. Sample Grant Agreement

Once the Conservancy has approved a grant at a public meeting, Conservancy staff will prepare a grant agreement setting forth the terms and conditions of the grant. A sample grant agreement is provided in Exhibit 2. Entities that do not agree to these terms and conditions will not be awarded a California Sea Otter Fund grant. A signed acknowledgment of Grant Terms and Conditions must be submitted with each application.

E. Nonprofit Organization Pre-Award Questionnaire

All Conservancy grantees should expect to be audited by the State of California. It is the grantee's responsibility to maintain all necessary records to substantiate and document all payments made pursuant to a Conservancy grant. If a grantee cannot provide adequate records when they are audited, they may be required to repay grant funds. The Conservancy now requires nonprofit grantees to submit the [Nonprofit Organization Pre-Award Questionnaire](#) to help flag any potential issues with accounting and record keeping before the grantee begins work. Technical assistance may be available to help grantees meet all of the state's accounting requirements.

**2017 California Sea Otter Fund Grants
Acknowledgement of Grant Terms and Conditions**

Applicants should review the Sample Grant Agreement attached to the California Sea Otter Fund Proposal Solicitation before completing this form.

My signature below certifies that I have reviewed the terms and conditions of the Sample Grant Agreement included with the California Sea Otter Fund Proposal Solicitation and that my organization will agree to these terms and conditions if the Coastal Conservancy approves funding for the proposed project listed below. For University of California (UC) and California State University (CSU) applicants, the terms and conditions will be included in Exhibit G of DGS's model contract form for contracts with UC and CSU.

Project Name			
Organization			
Printed Name		Title	
Signature		Date	

**2017 CALIFORNIA SEA OTTER FUND GRANTS
SAMPLE GRANT AGREEMENT**

SCOPE OF AGREEMENT

Pursuant to Chapter ____ of Division 21 of the California Public Resources Code, the State Coastal Conservancy (“the Conservancy”) hereby grants to **[grantee name]** (“the grantee”) a sum not to exceed \$ _____ (_____ dollars), subject to this agreement. The grantee shall use these funds to undertake the **[project name]** (“the project”) for the **[location]** area of **[city/county, etc.]**, as shown on Exhibit ____, which is incorporated by reference and attached.

[Add project description here]

The grantee shall carry out the project in accordance with this agreement and a work program as provided in the “WORK PROGRAM” section, below. The grantee shall provide any funds beyond those granted under this agreement which are needed to complete the project.

**CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND
DISBURSEMENT**

The grantee shall not commence the project and the Conservancy shall not be obligated to disburse any funds under this agreement until the following conditions precedent have been met:

1. The **[governing board]** of the grantee has adopted a resolution designating positions whose incumbents are authorized to negotiate and execute this agreement and amendments to it on behalf of the grantee.
2. The Executive Officer of the Conservancy (“Executive Officer”) has approved in writing:
 - a. The work program for the project as provided in the “WORK PROGRAM” section, below.
 - b. All contractors that the grantee intends to retain in connection with the project.
3. The grantee has provided written evidence to the Conservancy that:
 - a. The grantee has provided for required insurance coverage, including additional insured endorsement, as described in the “INSURANCE” section, below.

TERM OF AGREEMENT

This agreement shall take effect when signed by both parties and received in the office of the Conservancy together with the resolution described in the “CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT” section of this agreement. An authorized representative of the grantee shall sign the first page of the originals of this agreement in ink.

This agreement shall run from its effective date through _____, 20__ (“the termination date”) unless otherwise terminated or amended as provided in this agreement. However, all work shall be completed by _____ **[usually three months earlier than termination date]** (“the completion date”).

AUTHORIZATION

The signature of the Executive Officer of the Conservancy on this agreement certifies that at its _____, 20__ meeting, the Conservancy adopted the resolution included in the staff recommendation attached as Exhibit A. This agreement is executed under that authorization.

Standard Provisions

WORK PROGRAM

Before beginning the project, the grantee shall submit a detailed work program to the Executive Officer for review and written approval of its consistency with this grant agreement. The work program shall include:

1. The specific tasks to be performed.
2. A schedule of completion for the project, specifically listing the completion date for each project component and a final project completion date.
3. A detailed project budget. The project budget shall describe all labor and materials costs of completing each component of the project. For each project component, the project budget shall list all intended funding sources including the Conservancy's grant and all other sources of monies, materials, or labor.

If all or any part of the project to be funded under this agreement will be performed by third parties ("contractors") under contract with the grantee, then the grantee shall, prior to initiating any contractor selection process, submit the selection package to the Executive Officer for review and written approval as to consistency with the purposes of this grant agreement. Upon approval by the Executive Officer, the grantee shall proceed with the contractor selection process. Prior to final selection of a contractor, the grantee shall submit to the Executive Officer for written approval the names of all contractors that the grantee intends to hire. The grantee shall then comply with the above paragraph regarding submission and approval of a work program prior to project commencement.

The work program shall have the same effect as if included in the text of this agreement. However, the work program may be modified without amendment of this agreement upon the grantee's submission of a modified work program and the Executive Officer's written approval of it. If this agreement and the work program are inconsistent, the agreement shall control.

The grantee shall carry out the project in accordance with the approved work program.

COORDINATION AND MEETINGS

The grantee shall coordinate closely with Conservancy staff and other involved entities, including local, state and federal agencies, and shall participate in meetings and other communications as necessary to ensure coordination.

WORK PRODUCTS AND ACKNOWLEDGMENT OF CONSERVANCY SUPPORT

All material, data, information, and written, graphic or other work produced, developed or acquired under this agreement is subject to the unqualified and unconditional right of the Conservancy to use, reproduce, publish, display, and make derivative use of all such work, or any part of it, free of charge and in any manner and for any purpose; and to authorize others to do so. If any of the work is subject to copyright, trademark, service mark, or patent, the Conservancy is granted and shall have a perpetual, royalty-free, nonexclusive and irrevocable license to use, reproduce, publish, use in the creation of derivative works, and display and perform the work, or any part of it, and to grant to any third party a comparable and coextensive sublicense.

The grantee shall include in any contract with a third party for work under this agreement terms that preserve the rights, interests, and obligations created by this section, and that identify the Conservancy as a third-party beneficiary of those provisions.

The grantee shall not utilize the work produced under this agreement for any profit-making venture, or sell or grant rights to a third party for that purpose.

In order to acknowledge the Conservancy's support of the project, the Conservancy's name and logo shall be included in the final report in a prominent location. The grantee shall mention the Conservancy's support in its project-related press releases, contacts with the media, and social media postings, and on its website.

COSTS AND DISBURSEMENTS

When the Conservancy determines that all "CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT AND DISBURSEMENT" have been fully met, the Conservancy shall disburse to the grantee, in accordance with the approved project budget, a total amount not to exceed the amount of this grant, as follows:

The Conservancy shall disburse funds for costs incurred to date, less five percent, upon the grantee's satisfactory progress under the approved work program and upon submission of a "Request for Disbursement" form, which shall be submitted no more frequently than monthly but no less frequently than quarterly. The Conservancy shall disburse the five percent withheld upon the grantee's satisfactory completion of the project and compliance with the "PROJECT COMPLETION" section, below, and upon the Conservancy's acceptance of the project.

The Conservancy will reimburse the grantee for expenses necessary to the project when documented by appropriate receipts. The Conservancy will reimburse travel and related expenses at actual costs not to exceed the rates provided in Title 2, Division 1, Chapter 3, Subchapter 1, Article 2 of the California Code of Regulations ("CCR"), except that reimbursement may be in excess of these rates upon documentation that these rates are

not reasonably available to the grantee. Reimbursement for the cost of operating a private vehicle shall not, under any circumstance, exceed the current rate specified by the State of California for unrepresented state employees as of the date the cost is incurred. The Conservancy will reimburse the grantee for other necessary expenses if those expenses are reasonable in nature and amount taking into account the nature of the project, its location, and other relevant factors.

The grantee shall request disbursements by filing with the Conservancy a fully executed "Request for Disbursement" form (available from the Conservancy). The grantee shall include in the form its name and address, the number of this agreement, the date of the submission, the amount of the invoice, the period during which the work was actually done, and an itemized description, including time, materials, and expenses incurred, of all work done for which disbursement is requested. Hourly rates billed to the Conservancy and specified in the approved work program budget shall be equal to the actual compensation paid by grantee to employees, which may include employee benefits. The form shall also indicate cumulative expenditures to date, expenditures during the reporting period, and the unexpended balance of funds under the grant agreement.

An authorized representative of the grantee shall sign the form. Each form shall be accompanied by:

1. All receipts and any other source documents for direct expenditures and costs that the grantee has incurred.
2. Invoices from contractors that the grantee engaged to complete any portion of the work funded under this agreement and any receipts and any other source documents for costs incurred and expenditures by any such contractor, unless the Executive Officer makes a specific exemption in writing.
3. A supporting progress report summarizing the current status of the work and comparing it to the status required by the work program (budget, timeline, tasks, etc.), including written substantiation of completion of the portion of the project for which the grantee is requesting disbursement.

The grantee's failure to fully execute and submit a Request for Disbursement form, including attachment of supporting documents, will relieve the Conservancy of its obligation to disburse funds to the grantee unless and until the grantee corrects all deficiencies.

EXPENDITURE OF FUNDS AND ALLOCATION OF FUNDING AMONG BUDGET ITEMS

The total amount of this grant may not be increased except by written amendment to this agreement. The grantee shall expend funds consistent with the approved project budget. Expenditure on items contained in the approved project budget, other than overheard and

indirect costs, may vary by as much as ten percent without prior approval by the Executive Officer, provided that the grantee first submits a revised budget to the Conservancy and requests disbursement based on the revised budget. Any deviation greater than ten percent, and any deviation that shifts funds from approved budget items into an overhead or indirect costs category, must be identified in a revised budget approved in advance and in writing by the Executive Officer. The Conservancy may withhold payment for items which exceed the amount allocated in the project budget by more than ten percent and which have not received the approval required above. Any increase in the funding for any particular budget item shall mean a decrease in the funding for one or more other budget items unless there is a written amendment to this agreement.

PROJECT COMPLETION

The grantee shall complete the project by the completion date provided in the “TERM OF AGREEMENT” section, above. Upon completion of the project, the grantee shall supply the Conservancy with evidence of completion by submitting:

1. The plan and any other work products specified in the work program for the project, each in a format or formats (for example, paper, digital, photographic) approved by the Executive Officer.
2. A fully executed final “Request for Disbursement.”

Within thirty days of the grantee’s submission of the above, the Conservancy shall determine whether the grantee has satisfactorily completed the project. If so, the Conservancy shall issue to the grantee a letter of acceptance of the project. The project shall be deemed complete as of the date of the letter.

EARLY TERMINATION, SUSPENSION AND FAILURE TO PERFORM

Before the project has commenced, either party may terminate this agreement for any reason by providing the other party with seven days notice in writing.

Before the project is complete, the Conservancy may terminate or suspend this agreement for any reason by providing the grantee with seven days notice in writing. In either case, the grantee shall immediately stop work under the agreement and take all reasonable measures to prevent further costs to the Conservancy. The Conservancy shall be responsible for any reasonable and non-cancelable obligations incurred by the grantee in the performance of this agreement prior to the date of the notice to terminate or suspend, but only up to the undisbursed balance of funding authorized in this agreement. Any notice suspending work under this agreement shall remain in effect until further written notice from the Conservancy authorizes work to resume.

Before the project is complete, the grantee may terminate this agreement for any reason by providing the Conservancy with seven days notice in writing and repaying to the Conservancy all amounts disbursed by the Conservancy under this agreement. The Conservancy may, at its sole discretion, consider extenuating circumstances and allow early termination without repayment for work partially completed.

On or before the date of termination of the agreement under this section, whether terminated by the grantee or the Conservancy, the grantee shall provide the Conservancy with all work, material, data, information, and written, graphic or other work produced, developed or acquired under this agreement (whether completed or partial), in appropriate, readily useable form.

The parties expressly agree to waive, release and relinquish the recovery of any consequential damages that may arise out of the termination or suspension of this agreement under this section.

The grantee shall include in any agreement with any contractor retained for work under this agreement a provision that entitles the grantee to suspend or terminate the agreement with the contractor for any reason on written notice and on the same terms and conditions specified in this section.

INDEMNIFICATION AND HOLD HARMLESS

The grantee shall be responsible for, indemnify and hold harmless the Conservancy, its officers, agents and employees from any and all liabilities, claims, demands, damages, or costs, including without limitation litigation costs and attorneys fees, resulting from or arising out of the willful or negligent acts or omissions of the grantee, its officers, agents, contractors, subcontractors and employees, or in any way connected with or incident to this agreement, except for the active negligence of the Conservancy, its officers, agents or employees. The duty of the grantee to indemnify and hold harmless includes the duty to defend as provided in Civil Code Section 2778. **[Where the grantee is a public entity, add: This agreement supersedes any right the grantee may have as a public entity to indemnity and contribution as provided in Gov. Code Sections 895 et seq.]**

The grantee waives any and all rights to any type of express or implied indemnity or right of contribution from the State, its officers, agents or employees, for any liability resulting from, growing out of, or in any way connected with or incident to this agreement.

Nothing in this agreement is intended to create in the public or in any member of it rights as a third-party beneficiary under this agreement.

INSURANCE

Throughout the term of this agreement, the grantee shall procure and maintain insurance, as specified in this section, against claims for injuries to persons or damage to property that may arise from or in connection with any activities by the grantee or its agents, representatives, employees, volunteers, or contractors associated with the project undertaken pursuant to this agreement. As an alternative, with the written approval of the Executive Officer, the grantee may satisfy the coverage required by this section in whole or in part through: (a) its contractors' procurement and maintenance of insurance for work under this agreement, if the coverage otherwise fully satisfies the requirements of this section; or (b) the grantee's participation in a "risk management" plan, self insurance program or insurance pooling arrangement, or any combination of these, if consistent with the coverage required by this section.

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:
 - a. Insurance Services Office ("ISO") Commercial General Liability coverage, occurrence basis (Form CG 00 01) or comparable.
 - b. Automobile Liability coverage - ISO Form Number CA 0001, Code 1 (any auto).
 - c. Workers' Compensation insurance as required by the Labor Code of the State of California.

2. Minimum Limits of Insurance. Grantee shall maintain coverage limits no less than:

<ol style="list-style-type: none"> a. General Liability: <i>(Including operations, products and completed operations, as applicable)</i> b. Automobile Liability: 	<p>\$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the activities under this agreement or the general aggregate limit shall be twice the required occurrence limit.</p> <p>\$1,000,000 per accident for bodily injury and property damage.</p>
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3. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Executive Officer.

4. Required Provisions Concerning the Conservancy and the State of California.

- a. Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party, except after thirty days' prior written notice by first class mail has been given to the Conservancy; or in the event of cancellation of coverage due to nonpayment, after ten days prior written notice to the Conservancy. The grantee shall notify the Conservancy within two days of receipt of notice that any required insurance policy will lapse or be cancelled. At least ten days before an insurance policy held by the grantee lapses or is cancelled, the grantee shall provide the Conservancy with evidence of renewal or replacement of the policy.
 - b. The grantee hereby grants to the State of California, its officers, agents, employees, and volunteers, a waiver of any right to subrogation which any insurer of the grantee may acquire against the State of California, its officers, agents, employees, and volunteers, by virtue of the payment of any loss under such insurance. Grantee agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the grantee has received a waiver of subrogation endorsement from the insurer.
 - c. The general liability and automobile liability policies are to contain, or to be endorsed to contain, the following provisions:
 - (i) The State of California, its officers, agents and employees are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the grantee; and with respect to liability arising out of work or operations, including completed operations, performed by or on behalf of the grantee including materials, parts or equipment furnished in connection with such work or operations.
 - (ii) For any claims related to this agreement, the grantee's insurance coverage shall be primary insurance with respect to the State of California, its officers, agents and employees, and not excess to any insurance or self-insurance of the State of California.
 - (iii) The limits of the additional insured coverage shall equal the limits of the named insured coverage regardless of whether the limits of the named insurance coverage exceed those limits required by this agreement.
 - d. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
5. Acceptability of Insurers. Insurance shall be placed with insurers admitted to transact business in the State of California and having a current Best's rating of "B+:VII" or better or, in the alternative, acceptable to the Conservancy and approved in writing by the Executive Officer.

6. Verification of Coverage. The grantee shall furnish the Conservancy with original certificates and amendatory endorsements, or copies of the applicable policy language, effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Executive Officer before work commences. The Conservancy reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage, at any time.
7. Contractors. The grantee shall include all contractors as insureds under its policies or shall require each contractor to provide and maintain coverage consistent with the requirements of this section. To the extent generally available, grantee shall also require each professional contractor to provide and maintain errors and omissions liability insurance appropriate to the contractor's profession and in a reasonable amount in light of the nature of the project.
8. Premiums and Assessments. The Conservancy is not responsible for premiums and assessments on any insurance policy.

AUDITS/ACCOUNTING/RECORDS

The grantee shall maintain financial accounts, documents, and records (collectively, "records") relating to this agreement, in accordance with the guidelines of "Generally Accepted Accounting Principles" ("GAAP") published by the American Institute of Certified Public Accountants. The records shall include, without limitation, evidence sufficient to reflect properly the amount, receipt, deposit, and disbursement of all funds related to work under the agreement. Time and effort reports are also required. The grantee shall maintain adequate supporting records in a manner that permits tracing from the request for disbursement forms to the accounting records and to the supporting documentation.

Additionally, the Conservancy or its agents may review, obtain, and copy all records relating to performance of the agreement. The grantee shall provide the Conservancy or its agents with any relevant information requested and shall permit the Conservancy or its agents access to the grantee's premises upon reasonable notice, during normal business hours, to interview employees and inspect and copy books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this agreement and any applicable laws and regulations.

The grantee shall retain the required records for a minimum of three years following final disbursement by the Conservancy. The records shall be subject to examination and audit by the Conservancy and the Bureau of State Audits during the retention period.

If the grantee retains any contractors to accomplish any of the work of this agreement, the grantee shall first enter into an agreement with each contractor requiring the contractor to meet the terms of this section and to make the terms applicable to all subcontractors.

The Conservancy may disallow all or part of the cost of any activity or action that it determines to be not in compliance with the requirements of this agreement.

COMPUTER SOFTWARE

The grantee certifies that it has instituted and will employ systems and controls appropriate to ensure that, in the performance of this contract, state funds will not be used for the acquisition, operation or maintenance of computer software in violation of copyright laws.

NONDISCRIMINATION

During the performance of this agreement, the grantee and its contractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, ethnic group identification, physical disability (including HIV and AIDS), mental disability, medical condition, genetic information, gender, gender identity, gender expression, marital status, age, sexual orientation, or military and veteran status (Government Code section 12940). The grantee and its contractors also shall not unlawfully deny a request for or take unlawful action against any individual because of the exercise of rights related to family-care leave (Government Code sections 12945.1 and 12945.2). The grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination, harassment and unlawful acts.

Consistent with Government Code section 11135, the grantee shall ensure that no one, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, is unlawfully denied full and equal access to the benefits of, or is unlawfully subjected to discrimination under, the work funded by the Conservancy under this agreement.

Pursuant to Government Code section 12990, the grantee and its contractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.) and the applicable regulations (California Code of Regulations Title 2, section 7285.0 et seq.). The regulations of the Fair Employment and Housing Commission regarding Contractor Nondiscrimination and Compliance (Chapter 5 of Division 4 of Title 2 of the California Code of Regulations) are incorporated into this agreement by this reference.

The grantee and its contractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. This nondiscrimination clause shall be included in all contracts and subcontracts entered into to perform work provided for under this agreement.

INDEPENDENT CAPACITY

The grantee, and the agents and employees of the grantee, in the performance of this agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.

ASSIGNMENT

Without the written consent of the Executive Officer, this agreement is not assignable by the grantee in whole or in part.

TIMELINESS

Time is of the essence in this agreement.

EXECUTIVE OFFICER'S DESIGNEE

The Executive Officer shall designate a Conservancy project manager who shall have authority to act on behalf of the Executive Officer with respect to this agreement. The Executive Officer shall notify the grantee of the designation in writing.

AMENDMENT

Except as expressly provided in this agreement, no change in this agreement shall be valid unless made in writing and signed by the parties to the agreement. No oral understanding or agreement not incorporated in this agreement shall be binding on any of the parties.

LOCUS

This agreement is deemed to be entered into in the County of Alameda.

SURVIVAL

The obligations in the "WORK PRODUCTS AND ACKNOWLEDGMENT OF CONSERVANCY SUPPORT" and "INDEMNIFICATION AND HOLD HARMLESS" sections, above, shall survive the termination of this agreement.