

**ATTACHMENT B:
STATE COASTAL CONSERVANCY - STANDARD CONTRACT PROVISIONS**

RFP: Consultant to Assess Community Engagement & Benefits of Grant Program,
“Advancing Nature-Based Adaptation Solutions in Marin County”

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of Requests for Disbursement, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- B. Requests for Disbursement shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

Shemar Mauleon
Contracts Unit Manager
1515 Clay Street, 10th floor
Oakland, CA 94612

2. Budget Contingency Clause

- A. It is mutually agreed that 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 further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. Additional Payment Provisions

The total amount of funds disbursed under this contract shall not exceed \$_____.

The Conservancy shall make disbursements to Contractor on the basis of services rendered and costs incurred to date, less ten percent, upon satisfactory progress in accordance with schedules, budgets, and other provisions of this contract, and upon submission of a "Request for Disbursement" form (available from the Conservancy), which shall be submitted no more frequently than monthly but no less frequently than quarterly. The Conservancy shall disburse the ten percent withheld upon completion of all tasks to the satisfaction of the Conservancy and upon the submission of a final Request for Disbursement.

Services shall be billed at no more than the standard billing rate for the personnel of Contractor and its subcontractors, as specified in Attachment 1 to this Exhibit B.

The Conservancy will reimburse Contractor for direct expenses necessary to the provision of services under this contract 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, except that reimbursement may be in excess of these rates upon provision of documentation that rates in compliance are not reasonably available to Contractor. Reimbursement for the cost of operating a private vehicle shall not, under any circumstance, exceed the rate specified for excluded employees in 2 CCR Section 599.631(a) as of the date the cost is incurred. The Conservancy will reimburse Contractor at cost for other necessary expenses if those expenses are reasonable in nature and amount taking into account the services provided and other relevant factors.

No overhead or indirect expenses of the Contractor or its subcontractors will be reimbursed.

Each Request for Disbursement submitted by Contractor must include Contractor's name and address, the number of this contract, Contractor's authorized signature, the date of submission, the total amount of costs incurred for the period, a brief description of the services rendered and work products completed, and an itemized description, including time, materials and expenses incurred, of all work done for which disbursement is requested. The Request for Disbursement must also indicate itemized cumulative expenditures to date, expenditures during the reporting period, and the unexpended balance of contract funds. Each Request for Disbursement shall be accompanied by:

1. All receipts and any other source documents for direct expenditures and costs incurred by Contractor.
2. Invoices from subcontractors that the grantee engaged to complete any portion of the work funded under this contract and any receipts and any other source documents for costs incurred and expenditures by any such subcontractor, unless the Executive Officer makes a specific exemption in writing.
3. A supporting progress report summarizing the current status of the tasks under this contract and comparing it to the status required by the "WORK PLAN" described above

in Attachment 1 to Exhibit A, and including written substantiation of completion of the portion of the tasks for which disbursement is requested.

Contractor shall submit a final Request for Disbursement within thirty days after the completion date provided in the “Term of Agreement” section of Exhibit D.

Contractor’s failure to submit a Request for Disbursement and supporting documents, as required by this section, will relieve the Conservancy of its obligation to disburse funds to Contractor until Contractor corrects all deficiencies.

GENERAL TERMS AND CONDITIONS

NOTE: the General Terms and Conditions are included in the contract by reference to the internet site <https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/Standard-Contract-Language>. A copy of the version of the General Terms and Conditions applicable to this contract may be downloaded from that site and printed for your files. In addition, for ease of reference, a copy of the applicable General Terms and Conditions (“Exhibit C”) are attached, below.

1. **APPROVAL**: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. **AMENDMENT**: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. **ASSIGNMENT**: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. **AUDIT**: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor 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, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state

agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.

Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand,

recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime

Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

SPECIAL TERMS AND CONDITIONS

1. Early Termination, Suspension or Failure to Perform

In addition to the right to terminate for cause under section 7 of Exhibit C, “GENERAL TERMS AND CONDITIONS”, above, the Conservancy may terminate this contract for any reason by providing seven days written notice to the Contractor. During the term, the Conservancy may also suspend the contract before the work is complete. In either case, upon receipt of notice of termination, the Contractor shall immediately stop work under the contract and take whatever measures are necessary to prevent further costs to the Conservancy under this contract. The Conservancy shall be responsible for any reasonable and non-cancelable obligations incurred by the Contractor in the performance of this contract up to the date of notice to terminate or suspend, but only up to the unpaid balance of total funds authorized under this contract. Any notice suspending work under this contract shall remain in effect until further written notice from the Conservancy authorizes work to resume. On or before the date of termination of the contract under this section, the Contractor shall provide the Conservancy with all work, material, data, information, and written, graphic or other work produced or developed under this contract (whether completed or partial), in appropriate, readily useable form. The Contractor shall include in any contract with any subcontractor retained for work under this contract a provision that entitles the Contractor to suspend or terminate the contract with the subcontractor for any reason on written notice and on the same terms and conditions specified in this section.

2. Expenditure Of Funds And Allocation Of Funding Among Budget Items

The total amount of this contract may not be increased except by written amendment to this contract. The Contractor shall expend funds consistent with the approved project budget. The allocation of funds among the items in the budget may vary by as much as ten percent without approval by the Executive Officer, provided that the Contractor submits a revised budget to the

Executive Office prior to requesting disbursement based on the revised budget. Any difference of more than ten percent must be identified in a revised budget that is 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.

3. 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 Contractor of the designation in writing.

4. Insurance

Throughout the term of this contract, the Contractor 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 Contractor or its agents, representatives, employees, or subcontractors associated with the project undertaken pursuant to this contract.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

- i. Insurance Services Office (“ISO”) Commercial General Liability coverage (occurrence Form CG 0001 or comparable).
- ii. Automobile Liability coverage - ISO Form Number CA 0001, or comparable (covering “Any Auto” or Owned, Hired and Non-owned autos).
- iii. Workers’ Compensation insurance as required by the Labor Code of the State of California.

B. Minimum Limits of Insurance. The Contractor shall maintain limits no less than:

- i. General Liability: *(Including operations, products and completed operations, as applicable)* \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to the activities under this contract or the general aggregate limit shall be twice the required occurrence limit.
- ii. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

iii. Worker's Compensation: As required by law with Employer's Liability of no less than \$1,000,000.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Executive Officer.

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

- i. 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' written notice to the Conservancy. The Contractor shall notify the Conservancy within the earlier of: two days following the Contractor's receipt of any notice of cancellation, non-renewal or material change that affects the required insurance; or five business days before the effective date of any cancellation, non-renewal or material change that effects required insurance coverage.
- ii. The Contractor 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 Contractor may acquire against the State of California, its officers, agents, employees, and volunteers, by virtue of the payment of any loss under such insurance. The Contractor 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 Contractor has received a waiver of subrogation endorsement from the insurer.
- iii. The general liability, automobile liability, and vessel policies (if any) are to contain, or be endorsed to contain, the following provisions:
 - a. The State of California, its officers, agents and employees are to be covered as additional insureds, but only with respect to activities conducted relative to this contract. The additional insured endorsements are to be provided.
 - b. For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the State of California, its officers, agents and employees, and not excess to any insurance or self-insurance of the State of California.
 - c. 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.
- iv. 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.

- E. Acceptability of Insurers. Insurance is to be placed with insurers admitted to transact business in the State of California and having a Best's rating of ""B+:VII" or better or, in the alternative, acceptable to the Conservancy and approved in writing by the Executive Officer.
- F. Subcontractors. The Contractor shall include all subcontractors as insureds under its policies or shall require each subcontractor to provide and maintain coverage consistent with the requirements of this section.
- H. Verification of Coverage. The Contractor shall furnish the Conservancy with original certificates and amendatory endorsements, including the required additional insured endorsements, 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 effecting the coverage, at any time.
- I. Premiums and Assessments. The Conservancy is not responsible for premiums and assessments on any insurance policy.

5. Computer Software.

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

6. Work Products

Contractor hereby assigns to the Conservancy and the Conservancy accepts the assignment of all rights and interest in all material, data, information, and written, graphic or other work produced under this contract, including, without limitation, any right to copyright, patent or trademark the work.

Contractor shall include in any contract with a third party for work under this contract a provision that preserves the rights created by the first paragraph of this section, and that identifies the Conservancy as a third-party beneficiary of that provision.

Pursuant to Government Code section 7550, any document or written report that is produced under this contract at a cost of greater than \$5,000 shall contain a separate section disclosing all contracts and subcontracts related to the production of the document.

In any work products produced pursuant to this contract, the Contractor shall state, in a prominent location, that the work product was prepared on behalf of, and paid for, by the Conservancy. The Contractor shall provide similar acknowledgement in any public presentation or publication which describes or utilizes any work product produced pursuant to this contract. Any reference on Contractor's website to this contract's work products shall state that the work product was prepared on behalf of, and paid for, by the Conservancy, and shall include a link to

the Conservancy's website. The Contractor shall impose the obligations described in this paragraph on its subcontractors and shall include a similar provision to this paragraph in any agreement for work pursuant to this contract.

7. Contractor Identification And Evaluation

Within thirty days of completion of all work described in the "WORK PLAN" the Contractor shall be evaluated by Conservancy staff. The evaluation shall be kept with records of this agreement at the Conservancy's offices. If negative, a copy shall be sent (as required by law) to the Department of General Services, Legal Office. The evaluation shall be made available to the Contractor upon request.

8. Settlement Of Disputes

In addition to Contractor responsibilities under paragraph 6 of Exhibit C, if any dispute arises out of this contract, the Contractor or the Conservancy shall notify the other party within ten days of discovery of the problem. Within thirty days of such notification, the Executive Officer may confer with the Contractor and Conservancy staff members for the purpose of resolving the dispute. If the Conservancy is unable to resolve the dispute to the Contractor's satisfaction, the Contractor may proceed under Government Code sections 900 et seq. with any claims against the Conservancy arising out of this contract. If the dispute cannot be resolved to the Conservancy's satisfaction, the Conservancy may pursue any remedies available, including invoking its rights under the "EARLY TERMINATION, SUSPENSION OR FAILURE TO PERFORM" clause of this contract.

9. Locus

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