

EXHIBIT A

Advancing Performance Measure Reporting for New and Continuing Landscape Restoration Projects

A. Authority

This Contract Agreement (Agreement) is entered into between the Sacramento-San Joaquin Delta Conservancy, hereinafter referred to as the “Conservancy,” and the Aquatic Science Center, hereinafter referred to as “ASC.”

The Agreement is being funded under the US Environmental Protection Agency (US EPA) 2015 Wetland Development Program Grant (award number: CD - 99T3510-1). The US EPA has awarded the Conservancy \$124,180.38 in FY 15-16, of which \$102,780.00 is allocated for ASC. The US EPA has also stated that their intent is to award an additional funding in FY 16-17 to complete the project through FY 17-18. This Agreement between the Conservancy and ASC may be amended by mutual consent contingent upon an additional award in FY 16-17 from the US EPA, and ASC Agreement performance. This project aligns with the Conservancy’s Strategic Plan goal to “establish the Conservancy as a leader in gathering and communicating scientific and practical information about the Delta ecosystem and economy,” and to “lead efforts in protecting, enhancing, and restoring the Delta ecosystem in coordination with other governmental and non-governmental entities and citizens in the Delta.”

B. Background/Purpose

Both the Delta Plan and Proposition 1 call for careful tracking of restoration efforts and reporting on performance measures. Sharing data related to restoration projects across agencies in a coordinated fashion nevertheless remains a challenge.

The Agreement is to integrate project data and develop new capabilities to improve reporting on performance measures for wetland restoration projects between EcoAtlas, a system used by the Conservancy and a wider audience, and Delta View, an internal system used by the Delta Stewardship Council.

Under this Agreement, ASC will improve data access and availability by exchanging and synchronizing wetland restoration project data between EcoAtlas, and Delta View. Through past efforts, the Conservancy’s project tracking database has been exchanged with EcoAtlas. The Delta Stewardship Council currently stores and maintains all of its records for project tracking within their internal system, Delta View. Delta View currently lacks features available in EcoAtlas such as habitat classifications, a broader complement of wetland project tracking information, and accessibility by other agencies and the public. ASC will unify information tracked in EcoAtlas and Delta View to reduce duplicative project tracking and reporting and create additional features that can effectively serve the needs of Delta-based organizations.

C. Tasks and Timeline

The tasks to implement this project are described below. The starting date of this Agreement is the date of the Agreement execution through October 31, 2018.

Task 1. Integrate project data and performance measures between EcoAtlas and the Delta View. The purpose of this task is to establish formal data exchange standards and methods for the synchronization of key project data and performance measures between EcoAtlas and Delta View.

Subtasks:

1. Design the Application Programming Interface (API) that will allow the two systems to communicate mutually (90% funded with currently allocated budget and 10% pending Agreement amendment)
2. Share details of project data attributes to identify data collection gaps (100% funded with currently allocated budget)
3. Enhance EcoAtlas with necessary data-entry fields in satisfaction of Proposition 1 and Delta Plan needs (75% with currently allocated budget and 25% pending Agreement amendment)
4. Document protocols for data synchronization, including planned schedules and timelines (100% funded with currently allocated budget)

Deliverables:

1. A Data Interchange document which includes the data dictionary to record the fields in each system, the configuration of the Application Programming Interface, and a plan for scheduled synchronization. (90% with currently allocated budget and 10% pending Agreement amendment)
2. Additional fields added to EcoAtlas, where necessary, to accommodate identified reporting needs. (75% with currently allocated budget and 25% pending Agreement amendment)

Task 2. Develop new capabilities to improve performance measures reporting for wetland restoration projects for Proposition 1 Grant and other programs in the State. The purpose of this task is to develop additional reporting features in EcoAtlas to address identified gaps in relation to wetland restoration projects performance measures for Proposition 1 Grant and other State programs.

Subtasks:

1. Establish reporting priorities for the project by meeting with user groups and facilitating requirements-gathering (60% with currently allocated budget and 40% pending Agreement amendment)
2. Create the reporting features in EcoAtlas (50% with currently allocated budget and 50% pending Agreement amendment)
3. Develop the modules for integration of the new reporting features into Delta View (0% with currently allocated budget and 100% pending Agreement amendment)

Potential reports would be directly influenced by the needs established in subtask 1 and may include habitat restoration planned versus restored; restoration time series, showing past, current, and planned activities at a regional scale; expenditure tracking for restoration project outputs; CRAM Performance Curves; measures of habitat connectivity achieved across projects; measures of habitat support for keystone or sensitive species.

Deliverables:

1. Documentation on the reports offered (60% with currently allocated budget and 40% pending Agreement amendment)
2. Development of special reporting modularity for reporting features that are shared between EcoAtlas and Delta View (50% with currently allocated budget and 50% pending Agreement amendment)

Task 3. Outreach and Training. The purpose of this task is to develop training materials and engage in outreach of EcoAtlas and the new reporting functionality developed as part of this project to ensure usability and encourage well-informed decision-making.

Subtasks:

1. Develop training videos (10% with currently allocated budget and 90% pending Agreement amendment)
2. Prepare tutorial documentation (0% with currently allocated budget and 100% pending Agreement amendment)
3. Compile user surveys and responses (0% with currently allocated budget and 100% pending Agreement amendment)
4. Provide demos and targeted on-location training (0% with currently allocated budget and 100% pending Agreement amendment)

Deliverables:

1. Training videos (10% with currently allocated budget and 90% pending Agreement amendment)
2. Tutorial documentation, user surveys, demos and targeted on-location training (0% and 100% pending Agreement amendment)

Task 4. Reporting to the Conservancy. The purpose of this task is to regularly report progress towards deliverables through provide bi-annual written updates to the Conservancy Contract Manager, and a final progress report upon project completion.

Subtasks:

1. Prepare Progress Reports (bi-annual) (50% with currently allocated budget and 50% pending Agreement amendment)
2. Prepare Final Progress Report (50% with currently allocated budget and 50% pending Agreement amendment)

Bi-annual progress reports are due 10 calendar days after the end of each six month reporting period following the execution of Agreement. For an example of schedule of reporting periods, see **Table 2**. The final reporting period through October 31, 2018, will be included in the final report due November 30, 2018. The progress reports should include:

- A discussion of the activities conducted during the six month period (including a comparison of actual accomplishments with the anticipated outputs and outcomes specified in the description of tasks).
- Progress toward milestones specified in this Scope of Work.

- Problems encountered with achieving outputs and outcomes, and their resolution.
- Activities planned for the next six months.
- A financial accounting of costs incurred and in-kind services provided by ASC during the six month reporting period.
- Cumulative project costs since the beginning of the project, by task.

Deliverables:

1. Bi-annual progress reports, and final progress report submitted to the Conservancy (50% with currently allocated budget and 50% pending Agreement amendment)

Table 1. Deliverables and Timeline. *Table shows the deliverables and timeline for each task.*

Tasks	Milestones/Products	Start	End	% Funded with Currently Allocated Budget ¹
Task 1. Integrate project data and performance measures between EcoAtlas and the Delta View	1-1 Design the suitable Application Programming Interface (API) that will allow the two systems to communicate mutually	Upon Agreement Execution	3/16	90%
	1-2 Share details of project data attributes to identify data collection gaps	2/16	4/16	100%
	1-3 Enhance EcoAtlas with necessary data-entry fields in satisfaction of Proposition 1 and Delta Plan needs	5/16	8/16	75%
	1-4 Document protocols for data synchronization, including planned schedules and timelines	9/16	9/16	100%
Task 2. Develop new capabilities to improve Performance measures reporting for wetland restoration projects	2-1 Meet with user groups and establish reporting Priorities	Upon Agreement Execution	12/17	60%
	2-2 Create the reporting features in EcoAtlas	2/16	9/16	50%
	2-3 Develop the modules for integration of the new reporting features into Delta View	5/16	2/18	0%
Task 3. Outreach and Training	3-1 Develop training videos	5/16	1/18	10%
	3-2 Prepare tutorial documentation	5/16	1/18	0%
	3-3 Compile user surveys and responses	7/17	11/17	0%
	3-4 Provide demos and targeted on-location training	Upon Agreement Execution	2/18	0%
Task 4. Reporting to the Conservancy	4-1 Prepare Progress Reports (bi-annual)	3/16	12/17	50%
	4-2 Prepare Final Progress Report	3/18	3/18	50%

¹Pending an additional award from the US EPA in FY 16-17 and based on ASC performance, this Agreement may be amended with an additional \$103,600 to complete the project.

Table 2. Reporting Period Schedule. *Table shows the estimated start and end date for each reporting period based on Agreement execution date and every 6 months thereafter until completion.*

Reporting Period	Start Date	End Date
1	Agreement Execution Date	July 31, 2016
2	August 1, 2016	January 31, 2017
3	February 1, 2017	July 31, 2017
4	August 1, 2017	January 31, 2018
5	February 1, 2018	July 31, 2018
6	August 1, 2018	October 31, 2018

EXHIBIT B
Invoicing and Payment Provisions

1. INVOICING AND PAYMENT

- A. The maximum amount payable under this agreement shall not exceed \$102,780.00.
- B. For tasks satisfactorily rendered, in accordance with the scope of work, terms, conditions, and exhibits of this agreement; and upon receipt and approval of invoice(s), the Sacramento - San Joaquin Delta Conservancy (Conservancy) agrees to reimburse Aquatic Science Center (Contractor) for actual expenditures for said tasks, no more frequently than monthly in arrears, in accordance with the rates specified in Exhibit B, Attachment 1. The Conservancy will not accept an invoice for which work has not been approved or is outside of the agreement term and will return the invoice as a disputed invoice to the Contractor.
- C. The Conservancy will only reimburse for expenses incurred during the agreement period.
- D. Invoices shall be submitted not more frequently than monthly in arrears after receiving notice of satisfactory completion or acceptance of work by the Conservancy's Project Manager. Contractor shall submit (1) copy of the invoice bearing the agreement number, including other required information below to:

Sacramento-San Joaquin Delta Conservancy
1450 Halyard Drive, Suite 6
West Sacramento, CA 95691

Invoices must be printed on Contractor's letterhead and must be signed by an authorized official, employee or agent certifying that the expenditures claimed represent actual expenses for the task performed under this agreement. Invoices must also at a minimum include the following information:

- Contract agreement number
- Invoice number
- Invoice date
- Performance period
- Description of the work performed
- Itemized cost breakdown by Task and Deliverable at the same or greater level of detail as indicated in this agreement
- Original receipts of actual out-of-pocket expenses (must be pre-approved by the Conservancy Program Manager)
- Total dollar amount being billed for the statement period, within the term of the agreement
- Contractor's signature

In addition, the following must be attached to the invoice if travel is a reimbursable expense, original receipts must be maintained to support the claim expenditures and the following must be attached:

- Travel Expense Claim (Std. 262), which can be found at the following link: <http://www.documents.dgs.ca.gov/osp/pdf/std262.pdf>
 - Include travel expense amount in the total dollar amount of invoice
 - Reimbursement is made according to CalHR current state rates, see <http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>
 - No travel outside the State of California by Contractor shall be reimbursed unless there is prior written authorization from the Conservancy.
- D. Monthly invoices submitted for payment must be within 30 days following the end of each calendar month in which the work was performed and costs incurred in the performance of the Agreement, unless the agreement has reached the expiration/termination date (see item 5 below, "Timely Submission of Final Invoice") or alternate deadline that is agreed to in writing by the Conservancy Program Manager.

Undisputed invoices shall be paid within 45 days of the date received by the Conservancy's Contracted Fiscal Services, Accounts Payable Unit.

Costs and/or expenses deemed unallowable are subject to recovery by the Conservancy, see item 7 below, "Recovery of Overpayments".

- E. Invoices shall be paid based on actual expenses incurred and shall not exceed the total amount of this agreement. In the event actual expenditures differ from the estimated amounts of the budget, the Contractor's Project Representative and the Conservancy's Program Manager may re-negotiate specific line-item amounts provided the overall total project cost does not exceed the total agreement value. See Budget Modifications in # 7 below.

2. STATE 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.

- C. If funding for any fiscal year is not obligated by the funder, 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 Contractor to reflect the reduced amount.

3. FEDERALLY-FUNDED AGREEMENTS

- A. All agreements, except for state construction projects, that are funded in whole or in part by the federal government must contain a 30-day cancellation clause and the following provisions:
 - 1. It is mutually understood between the parties that this agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the agreement were executed after that determination was made.
 - 2. This agreement is valid and enforceable only if sufficient funds are made available to the State by the federal Government for the specified fiscal year and for the purpose of this program. In addition, this agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this agreement in any manner.
 - 3. The parties mutually agree that if the Congress does not appropriate sufficient funds for the program, this agreement shall be amended to reflect any reduction in funds.
 - 4. The Conservancy has the option to invalidate the agreement under the 30-day cancellation clause or to amend the agreement to reflect any reduction in funds.

4. 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. An incomplete/disputed invoice will be returned to Contractor per Government Code, Chapter 4.5, Section 927.6. Time specified for prompt payment in Government Code, Chapter 4.5, Section 927.4 commences upon submittal of a completed/undisputed invoice.

5. TIMELY SUBMISSION OF FINAL INVOICE

- A. A final undisputed invoice shall be submitted for payment no more than ninety (90) calendar days following the expiration or termination date of this agreement, unless a later or alternate deadline is agreed to in writing by the Conservancy Program Manager. The final invoice must be clearly marked "**FINAL INVOICE**", thus indicating that all payment obligations of the State under this Agreement have ceased and that no further payments are due or outstanding.

- B. The State may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written State approval of an alternate final invoice submission deadline. Written State approval shall be sought from the Conservancy Program Manager prior to the expiration or termination date of this agreement.

6. REVIEWS

Each party reserves the right to review service levels and billing procedures as these impact charges against this agreement.

7. BUDGET MODIFICATIONS

- A. Changes to the line-item budget within a task may be made without formal amendment without exceeding the total dollar amount of the agreement provided the Contractor adequately documents the need for the changes and all of the following requirements are met:
- The Contractor submits a written request for budget modification and explains the need for change(s) and specifically identifies item(s) to be reduced or increased.
 - The Conservancy approves such changes in writing prior to implementation. The Conservancy shall have thirty (30) calendar days from receipt of the request to approve or deny the request for the exchange of funds between line items.
- B. Any budget change not meeting the above conditions, including the addition of the new line items, shall be by formal agreement amendment.

8. RECOVERY OF OVERPAYMENT

- A. Contractor agrees that claims based upon a contractual agreement or an audit finding and/or audit finding that is appealed and upheld, will be recovered by the State and/or federal government by one of the following options:
1. Contractor's remittance to the State of the full amount of the audit exception within 30 days following the State's request for repayment; or
 2. A repayment schedule which is agreeable in writing to both the State and the Contractor.
- B. The State reserves the right to select which option will be enforced and the Contractor will be notified by the State in writing of the claim option to be utilized.
- C. If the Contractor has filed a valid appeal regarding the report of audit findings, recovery of the overpayments will be deferred until a final administrative decision on the appeal has been reached.

EXHIBIT B
 Attachment 1

Table 1. Budget and Timeline by Task. Table shows the budget and timeline for each task for ASC.

Task 1	Milestone/Products	Federally Funded Budget for ASC	In-Kind Contribution ASC	FY 15-16	FY 16-17	FY 17-18	Start Date	Completion Date
Task 1. Integrate project data and performance measures between EcoAtlas and the Delta View <i>Budget: \$70,280</i> <i>Kind: \$4,228</i>	1-1 Design the suitable Application Programming Interface (API) that will allow the two systems to communicate mutually	\$ 27,044.00	\$ 1,000.00	\$ 5,000.00	\$ 22,044.00	\$ -	Upon Agreement Execution	9/30/2016
	1-2 Share details of project data attributes to identify data collection gaps	\$ 5,000.00	\$ 500.00	\$ 3,000.00	\$ 2,000.00	\$ -	2/1/2016	5/30/2016
	1-3 Enhance EcoAtlas with necessary data-entry field in satisfaction of Prop. 1 and Delta Plan needs	\$ 30,000.00	\$ 2,000.00	\$ -	\$ 30,000.00	\$ -	7/1/2016	6/30/2017
	1-4 Document protocols for data synchronization, including planned schedules and timelines	\$ 8,236.00	\$ 728.00	\$ -	\$ 8,236.00	\$ -	9/1/2016	3/31/2017
Task 2. Develop new capabilities to improve performance measure reporting for wetland restoration projects for Prop. 1 and other programs in the State. <i>Budget: \$28,000</i> <i>In-Kind: \$2,300</i>	2-1 Meet with user groups and establish reporting priorities	\$ 3,000.00	\$ 1,000.00	\$ 2,500.00	\$ 500.00	\$ -	Upon Agreement Execution	12/31/2017
	2-2 Create the reporting features in EcoAtlas	\$ 25,000.00	\$ 1,300.00	\$ -	\$ 25,000.00	\$ -	2/1/2017	9/30/2017
	2-3 Develop the modules for integration of the new reporting features into Delta View	\$ -	\$ -	\$ -	\$ -	\$ -	5/1/2016	2/18/2018
Task 3. Outreach and Training <i>Budget: \$1,000</i> <i>In-Kind: \$1,000</i>	3-1 Develop training videos	\$ 1,000.00	\$ 1,000.00	\$ -	\$ 1,000.00	\$ -	12/1/2016	1/31/2018
	3-2 Prepare tutorial documentation	\$ -	\$ -	\$ -	\$ -	\$ -	7/1/2016	1/31/2018
	3-3 Compile user surveys and responses	\$ -	\$ -	\$ -	\$ -	\$ -	7/1/2017	11/1/2017
	3-4 Provide demos and targeted on-location training	\$ -	\$ -	\$ -	\$ -	\$ -	Upon Agreement Execution	2/28/2018
Task 4. Project Management, Team Coordination, and Reporting	4-1 Prepare Progress Reports (bi-annual)	\$ 2,100.00	\$ 100.00	\$ 1,000.00	\$ 1,100.00	\$ -	3/31/2016	12/31/2017
	4-2 Prepare Final Progress Report	\$ -	\$ -	\$ -	\$ -	\$ -	3/1/2018	3/31/2018
Travel <i>Budget: \$1,400</i> <i>In-Kind: \$0</i>		\$ 1,400.00	\$ -	\$ 600.00	\$ 800.00	\$ -	Upon Agreement Execution	3/31/2018
TOTAL		\$ 102,780.00	\$ 7,628.00	\$ 12,100.00	\$ 90,680.00	\$ -	--	--

EXHIBIT D
Special Terms and Conditions

1. EXCISE TAX

The State of California is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on employees' wages.

2. DISPUTE RESOLUTION

Any claim that the Contractor may have regarding the performance of this Agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Sacramento - San Joaquin Delta Conservancy (Conservancy) Program Contract Manager in writing within ten (10) days of discovery of the problem. The Contractor and the Conservancy Program Director or Director's designee will then attempt to negotiate a resolution of the claim, if appropriate, and process an amendment to this Agreement to implement the terms of any such resolution. If the Contractor and the Conservancy Program are unable to resolve the dispute, the decision of the Director or Director's designee will be final, unless appealed to a court of competent jurisdiction. Contractor will continue with the responsibilities under this Agreement during any dispute. In the event of a dispute, the language contained within this Agreement will prevail over any other language including that of the bid proposal.

3. ACKNOWLEDGMENT OF CREDIT

The Contractor will include appropriate acknowledgment of credit to the State of California, Sacramento - San Joaquin Delta Conservancy and all cost-sharing partners for their financial support when using any data and/or information developed under this Agreement.

4. STANDARD OF PROFESSIONALISM

The Contractor will conduct all work consistent with the professional standards of the industry and type of work being performed under the Agreement.

5. TERMINATION WITHOUT CAUSE

The Sacramento - San Joaquin Delta Conservancy may terminate this Agreement without cause upon thirty (30) days advance written notice. The Contractor will be reimbursed for all reasonable expenses incurred up to the date of termination.

6. COMPUTER SOFTWARE

If software usage is an essential element of performance under this Agreement, the Contractor certifies that it has appropriate systems and controls in place to ensure that Sacramento - San Joaquin Delta Conservancy funds will not be used in the performance of this contract. Acquisition, operation, or maintenance of computer software during the term of this Agreement must be performed in accordance with all applicable laws and vendor license agreements. Contractor will provide all necessary business productivity or utility software in addition to any required computer equipment, peripherals and proprietary or specialty software when performing services at Contractor location.

7. RIGHTS IN DATA

The Sacramento - San Joaquin Delta Conservancy will retain rights to all final products produced as a

result of this agreement The Contractor will provide the Sacramento – San Joaquin Delta Conservancy with an electronic or camera ready version of the final product Contractor will have full rights to reproducing the product(s) as long as used for government and not commercial, purposes. The Sacramento - San Joaquin Delta Conservancy has the right to: (1) obtain, reproduce, publish, or otherwise use the data first produced in performing this contract; and (2) authorize others to receive, reproduce, publish, or otherwise use such data by or on behalf of the Sacramento - San Joaquin Delta Conservancy.

8. COPYRIGHT

All rights in copyright works created by Contractor in the performance of work under this contract are the property of the Sacramento - San Joaquin Delta Conservancy. Sacramento - San Joaquin Delta Conservancy will grant Contractor a royalty-free, nonexclusive, non-transferable, irrevocable license to reproduce, prepare derivative works, and distribute copies of deliverables so long as such deliverables are used for government, and not commercial purposes.

9. INTELLECTUAL PROPERTY INDEMNITY

Contractor will defend and indemnify Sacramento - San Joaquin Delta Conservancy from and against any claim, lawsuit, or other proceeding, loss, cost, liability, or expense (including court costs and reasonable fees for attorneys and other professionals) to the extent arising out of any third party claim solely arising out of the negligent or other tortious acts or omissions by the Contractor, its employees, or agents, in connection with intellectual property claims against either deliverables or the Contractor's performance thereof under this Contract.

10. POTENTIAL SUBCONTRACTORS

Nothing contained in this Agreement or otherwise shall create any contractual relation between the State and any subcontractor, and no subcontract shall relieve the Contractor of its responsibilities and obligations hereunder The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractor and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or enforce the payment of any moneys to any subcontractor.

11. SUBCONTRACTING

The Contractor is responsible for any work it subcontracts. Subcontracts must include all applicable terms and conditions of this Agreement. Any subcontractor, outside associates, or consultants required by the Contractor in connection with the services covered by this Agreement shall be limited to such individuals or firms as were specifically identified in the bid or agreed to during negotiations for this Agreement, or as are specifically authorized by the Contract Manager during the performance of this Agreement Any substitutions in, or additions to, such subcontractors, associates or consultants shall be subject to the prior written approval of the Contract Manager. Contractor warrants, represents and agrees that it and its subcontractors, employees and representatives shall at all times comply with all applicable laws, codes, rules and regulations in the performance of this Agreement. Should State determine that the work performed by a subcontractor is substantially unsatisfactory and is not in substantial accordance with the contract

terms and conditions, or that the subcontractor is substantially delaying or disrupting the process of work, State may request substitution of the subcontractor.

12. FORCE MAJEURE

Neither party will be liable to the other for any delay in or failure of performance, nor will any such delay in or failure of performance constitute a default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of God such as earthquakes, floods, and other natural disasters such that performance is impossible.

13. AGENCY LIABILITY

The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Sacramento - San Joaquin Delta Conservancy will, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

14. RENEWAL OF CCC

Contractor will renew the Contractor Certification Clauses or successor documents every three (3) years or as changes occur, whichever occurs sooner.

15. CONFLICT OF INTEREST

- A. Current and Former State Employees: Contractor should be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.
- (1) Current State Employees: (PCC §10410)
 - (a) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
 - (b) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
 - (2) Former State Employees: (PCC §10411)
 - (a) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
 - (b) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if

he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

- B. Penalty for Violation: If the Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void (PCC §10420).
- C. Members of Boards and Commissions: Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem (PCC §10430 (e)).
- D. Representational Conflicts of Interest: The Contractor must disclose to the Council Program Manager any activities by contractor or subcontractor personnel involving representation of parties, or provision of consultation services to parties, who are adversarial to the Council Program. The Council Program may immediately terminate this contract if the contractor fails to disclose the information required by this section. The Council Program may immediately terminate this contract if any conflicts of interest cannot be reconciled with the performance of services under this contract.
- E. Financial Interest in Contracts: Contractor should also be aware of the following provisions of Government Code §1090:

“Members of the Legislature, state, county district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.”

- F. Prohibition for Consulting Services Contracts:

For consulting services contracts (see PCC §10335.5), the Contractor and any subcontractors (except for subcontractors who provide services amounting to 10 percent or less of the contract price) may not submit a bid/SOQ, or be awarded a contract, for the provision of services, procurement of goods or supplies or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of such a consulting services contract (see PCC §10365.5).

16. POLITICAL REFORM ACT REQUIREMENTS

- A. Form 700 Disclosure: The Council considers the Contractor to be a “consultant,” i.e., a public official, within the meaning of the Political Reform Act, specifically Government Code §82048 and Title 2, California Code of Regulations §18701. Accordingly, the Contractor shall complete and submit to the Council Personnel Officer an “Assuming Office” Form 700, Statement of Economic Interest, within 30 days of the effective date of the contract, updated both annually and when changes in duties occur. Contractors may access the form 700 on the Fair Political Practices Commission website, www.fppc.ca.gov. Any questions regarding completion of the

Form 700 should be addressed to the FPPC at its website or at (866) 275-3772 (866/ASK-FPPC). Contractor will also be required to submit a leaving office statement upon completion of all contract assignments.

- B. Financial Conflict of Interest Prohibition: Contractor must review his or her Form 700 and determine whether, in the light of the interests disclosed, performance under the contract could violate Government Code §87100. Government Code §87100 provides:

“No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.”

- C. Consequences of Failure to Comply with Political Reform Act Requirements: Any one of the following shall constitute a breach of this Contract and shall be grounds for immediate termination of this Contract:
- (1) Failure to complete and submit all required Form 700(s) by the appropriate filing deadlines, or respond to any request from the Council Personnel Officer for additional information regarding any Form 700;
or
 - (2) Failure to notify Council of a potentially disqualifying conflict of interest.

EXHIBIT E
Additional Provisions
Protection of Confidential and Sensitive Information

1. For purposes of this Exhibit, “Contractor” means any Contractor or researcher, including a Non-State Entity Contractor or researcher, receiving funds from, doing business with, conducting research for, or performing services for the Sacramento-San Joaquin Delta Conservancy (Conservancy) pursuant to a contract, purchase order, research agreement, grant or loan agreement, joint powers agreement, public works contract, or other contractual vehicle (collectively “Agreement”). The term “Contractor” also includes Contractor’s officers and employees and Affiliates. For purposes of this Exhibit, the term “Affiliate” means a person or entity forming a partnership, joint venture, subcontract, sales contract, or other legal relationship with Contractor to carry out the terms of the Agreement.
2. This Exhibit terms shall apply to all Contractors who have an Agreement with the Conservancy and require or permit access to Confidential or Sensitive Information in conducting business with the Conservancy or performing duties under an Agreement with the Conservancy.
3. Contractor shall impose all the requirements of this Exhibit on all of its officers, employees and Affiliates with access to Confidential and/or Sensitive Information.
4. For purposes of this Exhibit, “Non-State Entity” shall mean a business, organization or individual that is not a State entity, but requires access to State information assets in conducting business with the State. This definition includes, but is not limited to, researchers, vendors, consultants, and their subcontractors, officers, employees, and entities associated with federal and local governments and other states.
5. For purposes of this Exhibit, “Confidential Information” means information, the disclosure of which is restricted or prohibited by any provision of State or federal law or which is treated as privileged or confidential under such laws. Such Confidential Information includes, but is not limited to, information that is exempt from disclosure under the California Public Records Act (Government Code sections 6250-6255), public social services client information described in California Welfare and Institutions code section 10850, and “personal information” about individuals as defined in California Civil Code Section 1798.3 of the Information Practices Act (IPA) if the disclosure of the “personal information” is not otherwise allowed by the IPA. Such Confidential Information may also include financial, statistical, personal, technical, and other data and information relating to operation of the Department.
6. For purposes of this Exhibit, “Sensitive Information” means information that requires special precautions to protect it from unauthorized modification or deletion. Sensitive information may be either public records or Confidential Information. Examples include statistical reports, financial reports, and logon procedures.
7. Contractor shall take all necessary measures to protect Confidential or Sensitive Information to which it or its Affiliates gain access from unauthorized access (accidental or intentional), modification, destruction, or disclosure. These measures may include, but are not limited to: password protection of electronic data, encrypted transmission of electronic data, and secure mailing and locked storage of paper and taped copies. Such measures may also include establishment of secure workstations and maintenance of a secure workstation access log. Contractor’s shall also apply appropriate security

patches and upgrades and keep virus software up-to-date on all systems on which Confidential or Sensitive Information may be used.

8. Contractor's shall ensure that all media, including electronic media, containing Confidential or Sensitive Information, to which they are given access are protected at the level of the most confidential or sensitive piece of data on the media.
9. Contractor and Affiliate personnel allowed access to Confidential and Sensitive Information shall be limited to those persons with a demonstrable business need for such access. Contractor shall maintain a current listing of all Contractor and Affiliate personnel with access to Confidential and Sensitive Information.
10. Contractor shall notify Conservancy promptly if a security breach involving Confidential or Sensitive Information occurs or if Contractor becomes legally compelled to disclose any Confidential Information.
11. Contractor shall comply with all State policies and laws regarding use of information resources and data, including, but not limited to, California Government Code section 11019.9 and Civil Code sections 1798 et seq. regarding the collection, maintenance and disclosure of personal and confidential information about individuals.
12. If Contractor obtains access to Confidential Information containing personal identifiers, such as name, social security number, address, date of birth, race/ethnicity and gender of individuals, Contractor shall substitute non-personal identifiers as soon as possible.
13. All data, reports, information, inventions, improvements and discoveries used, compiled, developed, processed, stored or created by Contractor or Contractor's Affiliates using Confidential and/or Sensitive Information shall be treated as Confidential and/or Sensitive Information by the Contractor and Contractor's Affiliates. No such data, reports, information, inventions, improvements or discoveries shall be released, published or made available to any person (except to the Conservancy) without prior written approval from the Conservancy.
14. At or before the termination date of the Agreement, Contractor shall either (a) destroy all Confidential and Sensitive Information in accordance with approved methods of confidential destruction; or (b) return all Confidential and Sensitive Information to the Conservancy; or (c) if required by law to retain such information beyond the termination date of the agreement, provide for the Conservancy's review and approval a written description of (i) applicable statutory or other retention requirements; (ii) provision for confidential retention in accordance such requirements and the terms of this Exhibit and (iii) provision for eventual destruction in accordance with all applicable provisions of State and federal law using approved methods of confidential destruction.
15. Contractor shall cooperate with the Conservancy's Information Security Officer or designee in carrying out the responsibilities set forth in this Exhibit.
16. Failure to adhere to these requirements may be grounds for termination of the Agreement and for imposition of civil and criminal penalties.

EXHIBIT E, ATTACHMENT 1
NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Confidential and Sensitive Information is provided to me pursuant to the terms and restrictions of the **Protection of Confidential and Sensitive Information**, contained in Exhibit E between the Aquatic Science Center (ASC) and the Sacramento-San Joaquin Delta Conservancy (Conservancy). I hereby agree to be bound by those terms and restrictions. I understand that all Confidential and Sensitive Information, as defined in the **Protection of Confidential and Sensitive Information**, and any notes or other memoranda, or any other form of information, electronic or otherwise that copies or discloses Confidential Information, shall not be disclosed to anyone other than in accordance with the **Exhibit E, Attachment 1**. I acknowledge that a violation of this certificate may result in termination of the Agreement and/or imposition of civil or criminal penalties.

Signed: _____

Typed Name and Title: _____

Representing (give name of Contractor/Affiliate): _____

Date: _____