



*EAST CONTRA
COSTA COUNTY
HABITAT
CONSERVANCY*

City of Brentwood

City of Clayton

City of Oakley

City of Pittsburg

Contra Costa County

GOVERNING BOARD

REGULAR MEETING

Monday, December 8, 2014
2:00 p.m.

City of Brentwood
Brentwood City Hall, Council Chambers
150 City Park Way, Brentwood, 94513

AGENDA

2:00 p.m. Convene meeting.

- 1) Introductions.**
- 2) Report on any actions taken in Closed Session.**
- 3) Public Comment on items that are not on the agenda** (public comment on items on the agenda will be taken with each agenda item).
- 4) Consider APPROVING the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Meeting of October 27, 2014.**
- 5) Consider the following Governing Board administrative matters:**
 - a) CONFIRM Conservancy Chair and Vice Chair for 2015.**
 - b) AUTHORIZE staff to schedule the next Governing Board meeting for February once Board membership for the year has been set. SET the schedule for the remainder of 2015 at the February meeting.**
- 6) Consider DETERMINING representation on Public Advisory Committee (PAC) for 2015.**
- 7) Consider APPROVING the 2015 Conservancy Work Plan.**
- 8) Consider the following actions related to legislative matters:**
 - a) ADOPT the 2015 Legislative Platform;**
 - b) ADOPT Resolution 2014-03 to support working together with agencies from across California to request that the United States Congress restore overall funding of the U.S. Fish and Wildlife Service Cooperative Endangered Species Fund from approximately**

- \$50 million to \$80 million in the Fiscal Year 2016 Interior and Related Agencies Appropriations bill;**
- c) AUTHORIZE the Chair or staff, as appropriate, to communicate items on the Platform to relevant members and staff of the U.S Congress and the California Legislature, relevant federal and state agencies, potential advocacy partners and others;**
 - d) AUTHORIZE payment of \$5,000 as membership dues for the California Habitat Conservation Planning Coalition in 2015.**
- 9) Consider the following actions related to Conservancy finances:**
- a) APPROVE the 2015 Conservancy Budget.**
 - b) AUTHORIZE staff to execute annual contracts for on-going consulting services with:**
 - ICF Jones and Stokes: not to exceed \$115,000 for the term from January 1, 2015 to December 31, 2015;**
 - H.T. Harvey and Associates: not to exceed \$35,000 for the term from January 1, 2015 to December 31, 2015;**
 - Monk and Associates: not to exceed \$40,000 for the term from January 1, 2015 to December 31, 2015.**
 - Nomad Ecology: not to exceed \$120,000 for the term from January 1, 2015 to December 31, 2015.**
 - Restoration Resources: not to exceed \$50,000 for the term from January 1, 2015 to December 31, 2015.**
 - Thunder Mountain Enterprises not to exceed \$50,000 for the term from January 1, 2015 to December 31, 2015.**
 - c) AUTHORIZE staff to execute a contract for legal services with:**
 - Resources Law Group: not to exceed \$90,000 for a term from January 1, 2015 through December 31, 2015.**
 - d) AUTHORIZE staff to amend an existing contract for legal services with**
 - Abbott and Kindermann: extend the term one year to December 31, 2015.**
- 10) Consider APPROVING Implementation Policy regarding calculating contribution to recovery charges related to Participating Special Entities seeking take authorization from the East Contra Costa County Habitat Conservancy, as recommended by Conservancy staff and the Public Advisory Committee (PAC).**
- 11) Consider AUTHORIZING staff to execute a funding agreement with the East Bay Regional Park District (“EBRPD”), and one federal subgrant agreement with the California Wildlife Conservation Board (WCB) for federal funds for acquisition of the Clayton Radio Property (APN 075-170-002); Nortonville Road, Contra Costa County, CA.**

Adjourn to Closed Session

CS1) Conference with Legal Counsel – Existing Litigation (Gov. Code, § 54956.9(d)(1))
Discovery Builders, Inc. v. City of Brentwood, California; City Council of the City of Brentwood, et al.; Contra Costa County Superior Court, Case No. N13-1781

CS2) Conference with Real Property Negotiators

Property: APNs 020-171-001 and 020-172-004; 8831 Byron Highway, Knightsen, CA
Agency Negotiators: John Kopchik, Abigail Fateman and Joanne Chiu
Negotiating Parties: Conservancy, East Bay Regional Park District and Ronald Nunn Family LP. Under negotiation: Price and payment terms

Reconvene Open Session

12) Report on any actions taken in Closed Session.

13) Adjourn. Next Governing Board meeting TBD.

If you have questions about this agenda or desire additional meeting materials, you may contact Maureen Parkes of the Contra Costa County Department of Conservation and Development at 925-674-7203.

The Conservancy will provide reasonable accommodation for persons with disabilities planning to participate in this meeting who contact staff at least 24 hours before the meeting.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 8, 2014
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: **Governing Board Meeting Record for October 27, 2014**

RECOMMENDATION

APPROVE the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Meeting of October 27, 2014.

DISCUSSION

Please find the draft meeting record attached.

CONTINUED ON ATTACHMENT: <u>Yes</u>	APPROVED AS RECOMMENDED: _____
ACTION OF BOARD ON: <u>December 8, 2014</u>	
OTHER: _____	
<u>VOTE OF BOARD MEMBERS</u>	
<u> </u> UNANIMOUS	
AYES: _____	
NOES: _____	
ABSENT: _____	
ABSTAIN: _____	
	I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.
	ATTESTED
	<u>John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</u>
	BY: _____, DEPUTY

Draft Meeting Record

East Contra Costa County Habitat Conservancy
 Monday, October 27, 2014
 City of Oakley

The Board convened the meeting at 2:00 p.m.

1) Introductions.

Governing Board members in attendance were:

Joel Bryant	City Council, City of Brentwood
Hank Stratford	City Council, City of Clayton
Mary Piepho	Contra Costa County Board of Supervisors (Conservancy Chair)
Randy Pope	City Council, City of Oakley (Conservancy Vice Chair)
Salvatore Evola	City Council, City of Pittsburg

Other attendees (who signed the sign-in sheet):

Mindy Gentry	City of Antioch
Seth Adams	Save Mount Diablo

Conservancy Staff and consultants in attendance were:

John Kopchik	Conservancy Staff
Abigail Fateman	Conservancy Staff
Joanne Chiu	Conservancy Staff
Allison Van Dorn	Conservancy Staff
Bill Abbott	Conservancy Legal Counsel

The Board announced adjournment to Closed Session.

- 2) **Report on Actions Taken in Closed Session.** There were no actions to report.
- 3) **Public Comment on items that are not on the agenda (public comment on items on the agenda will be taken with each agenda item).** There were no public comments.
- 4) **Consider APPROVING the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Meeting of August 25, 2014.** The meeting record was approved. (5-0: Piepho, Bryant, Evola, Pope, Stratford)
- 5) **Consider RESCHEDULING the December 2014 Governing Board meeting to a new date and time. (Abigail Fateman)** The meeting was rescheduled to December 8, 2014 at 2:00PM at the City of Clayton. Meeting reschedule was approved (5-0: Piepho, Bryant, Evola, Pope, Stratford)
- 6) **Consider the following actions related to extending take coverage to San Pablo Bay Company LLC for the Shell Pipeline North 20 ILI Repair Project. (Joanne Chiu)**
 - a) **AUTHORIZE staff to file a Notice of Exemption for this Board action with the County Clerk.**

- b) **AUTHORIZE Interim Executive Director to execute a First Amendment to the Participating Special Entity Agreement with San Pablo Bay Company LLC for take coverage of the Shell Pipeline North 20 ILI Repair Project, as further described in Addendum 1.0 to the Planning Survey Report, provided the Wildlife Agencies concur with the First Amendment.**

Ms. Chiu provided an overview of the project highlighting key elements from the staff report. Items 6a and 6b were approved as recommended by staff. (5-0: Piepho, Bryant, Evola, Pope, Stratford)

- 7) **Consider the following actions related to extending take coverage to Pacific Gas and Electric Company for the Contra Costa-Moraga 230 kV Transmission Line Reconductoring Project. (Joanne Chiu)**

- a) **AUTHORIZE staff to file a Notice of Determination for this Board action with the County Clerk.**

- b) **AUTHORIZE Interim Executive Director to execute a First Amendment to the Participating Special Entity Agreement with PG&E for take coverage of the Contra Costa-Moraga 230 kV Transmission Line Reconductoring Project, as further described in Addendum 1.0 to the Planning Survey Report, provided the Wildlife Agencies concur with the First Amendment.**

Ms. Chiu provided an overview of the project. Ms. Chiu discussed the changes in the project from the original project description. Items 7a and 7b were approved as recommended by staff. (5-0: Piepho, Bryant, Evola, Pope, Stratford)

- 8) **Consider REVIEWING the draft report entitled Assessment of Plan Effects on California Environmental Quality Act (CEQA) Species, consider REFERRING this matter to the Public Advisory Committee (PAC) and circulate the Report to the Conservancy stakeholders and Wildlife Agency staff for additional review and recommendation; and consider DIRECTING staff to report back to the Governing Board. (Abigail Fateman)** Ms. Fateman introduced the item and Mr. Kopchik provided a brief background on the document and the PAC review process. Chair Piepho raised concerns about timeframe of the PAC review. Mr. Kopchik suggested 6 months for a report back which would allow the PAC two meetings to review and provide comments on the document. Chair Piepho requested a recap on the PAC members and the committee's role in the Conservancy. Mr. Kopchik and Ms. Fateman provided a brief review of the members and their role as a consultative appointed committee comprised of private developers, conservation advocates, private landowners, residents and public agency staff. Chair Piepho about PAC participation and requested staff to review PAC participation and provide an organizational chart for the December Governing Board meeting. Board Member Evola supported Chair Piepho's request with the additional request for Conservancy staff to provide a PAC task list to ensure the committee is well utilized. The item was approved and the request for additional information regarding the Public Advisory Committee's role and member participation will be addressed as a separate agenda item at the December 2014 Governing Board meeting. (5-0: Piepho, Bryant, Evola, Pope, Stratford)

- 9) **Consider AUTHORIZING staff to send a letter to the City of Antioch regarding available match funding for the Section 6 Planning Grant for an Antioch HCP/NCCP and consider AUTHORIZING staff to expend up to \$25,000 of the available funds for immediate work on this matter. (Abigail Fateman)** Ms. Fateman provided a brief

background on the Conservancy’s assistance in the development of the City of Antioch’s Section 6 Planning Grant proposal for an Antioch HCP/NCCP. Ms. Fateman noted the City of Antioch was awarded a \$688,000 planning grant in September 2014. As a requirement of this grant award, the City of Antioch must provide 25% non-federal local match funding. The Conservancy has reserved \$100,000 for this purpose and Antioch requested a letter on this that could be shared with the Antioch City Council. Mindy Gentry, Senior Planner with the City of Antioch, spoke in favor of the letter. Chair Piepho requested clarification on whether the Antioch HCP/NCCP will be a stand-alone plan or be part of the ECCC HCP/NCCP. Mr. Kopchik stated there is potential for the Antioch HCP/NCCP to be administered by the Conservancy Governing Board (which could be expanded to include an Antioch representative), but the Antioch Plan would need to be a separate document from the ECCC HCP/NCCP to be eligible for grant funding. Board Member Bryant expressed interest in pursuing a compatible plan with possibility of reducing the overall cost of participation in Plan implementation. Board Member Evola supported Board Member Bryant and suggested that an Antioch HCP/NCCP be consistent with the requirements in the ECCC HCP/NCCP. Mr. Kopchik proposed the letter state match funding was intended to reduce cost and establish consistent HCP/NCCP implementation throughout East Contra Costa County. The item was approved as recommended, with the addition the letter include language to express Conservancy match funding is intended to establish cohesive and cost-effective HCP/NCCP implementation throughout East Contra Costa County. (5-0: Piepho, Bryant, Evola, Pope, Stratford)

- 10) Consider **AUTHORIZING** staff to execute a funding agreement with the East Bay Regional Park District (“EBRPD”), one state grant agreement and one federal subgrant agreement with the California Wildlife Conservation Board (WCB) for state and federal funds for acquisition of the Viera/Perley Property (APNs 080-070-003 and 080-070-005); Morgan Territory Road, Clayton, California. (Abigail Fateman) Ms. Fateman provided a PowerPoint presentation on the proposed acquisition of the Viera/Perley property, noting that no conservancy funds will be spent on this purchase. Seth Adams from Save Mount Diablo spoke in favor of the acquisition, stating this property has been a high priority for Save Mount Diablo since the early 1970’s and that acquiring this property will help to connect conserved parcels in the region. The item was approved as recommended. (5-0: Piepho, Bryant, Evola, Pope, Stratford)
- 11) Consider **ACCEPTING** an update on the Hess Creek Channel Restoration Project. (Abigail Fateman) Ms. Fateman provided a report on the completed Hess Creek Channel Restoration Project. The item was approved as recommended. (5-0: Piepho, Bryant, Evola, Pope, Stratford)
- 12) Consider **PRESENTING** Hank Stratford with a certificate honoring his many years of service and leadership for the East Contra Costa County Habitat Conservancy. (Abigail Fateman) Chair Piepho presented Board Member Stratford with a certificate honoring his service on the Conservancy Board.
- 13) **Adjourn. Next Governing Board meeting on December 22, 2014. The next meeting is scheduled for December 8th, 2014.**

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 8, 2014
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: **Administrative Matters for the Governing Board for 2015**

RECOMMENDATION

- a) **CONFIRM Conservancy Chair and Vice Chair for 2015.**
- b) **AUTHORIZE staff to schedule the next Governing Board meeting for February 2015 once Board membership for the year has been set. SET the schedule for the remainder of 2015 at the February meeting.**

DISCUSSION

Item A: In January 2009, the Conservancy Governing Board established a protocol for rotating the Chair and Vice Chair positions. These positions rotate alphabetically by jurisdiction, starting in 2009 with Clayton as Chair and County as Vice Chair. In 2014, the County representative was Chair and the Oakley representative was Vice Chair. In 2015, these positions will rotate again with the Oakley representative as Chair and the Pittsburg representative as Vice Chair.

Item B: The Joint Powers Agreement (JPA) forming the Conservancy requires the Governing Board to set a regular meeting schedule. That schedule is set on an annual basis to reflect the availability of Board Members for that year. The Governing Board also previously directed that the meeting location rotate among the jurisdictions.

Since the December 8, 2014, Governing Board meeting precedes City/County appointments for 2015, the representatives from the participating jurisdictions for 2015 have not yet been determined. Staff seeks authorization to schedule the first 2015 Board meeting for February once Board representation for 2015 is set.

CONTINUED ON ATTACHMENT: <u> No </u>	APPROVED AS RECOMMENDED: _____
ACTION OF BOARD ON: <u> December 8, 2014 </u>	
OTHER: _____	
<u>VOTE OF BOARD MEMBERS</u>	
<u> </u> UNANIMOUS	
AYES: _____	
NOES: _____	
ABSENT: _____	
ABSTAIN: _____	
	I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.
	ATTESTED _____
	<i>John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</i>
	BY: _____, DEPUTY

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 8, 2014
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: 2014/2015 Public Advisory Committee

RECOMMENDATION

DETERMINE representation on Public Advisory Committee (PAC) for 2015.

DISCUSSION

PAC Background and Role

Pursuant to requirements in the HCP/NCCP, the Board initiated the PAC in February 2008 and established a quarterly meeting schedule. The PAC reports to the Board and provides input to the Board and staff on many aspects of Plan implementation. The PAC is responsible for reviewing and commenting on the general implementation processes of the HCP/NCCP including the expenditures of funds for conservation measures, the general process for issuing take coverage to covered activities, the operation of preserves and adaptive management and the adherence to plan commitments. The PAC is to operate by consensus, but when consensus cannot be reached, the various positions will be reported to the Board.

The Board action initiating the PAC requires the composition of the PAC to be reviewed annually. The most recent action taken by the Board related to changing representation on the PAC was on July 26, 2012 when the Board appointed a new representative to the PAC to fill the vacancy in the rural and suburban resident category. On December 9, 2013, the Board reaffirmed PAC representation for 2014 without change.

CONTINUED ON ATTACHMENT: <u> x </u>		APPROVED AS RECOMMENDED: _____
ACTION OF BOARD ON: <u> December 8, 2014 </u>		
OTHER: _____		
<u>VOTE OF BOARD MEMBERS</u>		
<u> </u> UNANIMOUS		I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN. ATTESTED _____ <i>John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</i>
AYES: _____		
NOES: _____		
ABSENT: _____		
ABSTAIN: _____		
BY: _____, DEPUTY		

Attendance

Staff reviewed attendance of the 12 committee members/organizations over seven meetings of the Public Advisory Committee (2013/2014.) An average of six PAC members were present at each meeting, though staff and members of the public also attend and participate.

	Permit Seekers			Conservation Advocates			Private Landowners			Public Reps		
	East Bay Leadership Council	Discovery Builders Association	Home Builders Association	CA Native Plant Society	Friends of Marsh Creek	Save Mount Diablo	Ag and Natural Resources Trust of CCC	Citizens Land Alliance	CCC Farm Bureau	Dick Vrmeer	Sharon Osteen	Kelly Davidson
Number of meetings attended	0	6	0	0	2	4	5	7	4	4	6	6

* Attendance was reviewed for 7 meetings in 2013/2014. These include: 2/14/2013, 5/9/2013, 9/12/2013, 11/13/2013, 5/8/2014, 8/14/2014, 11/13/2014

PAC members present at the November 2014 recommend that efforts to boost attendance of some representatives continue. However, they recognized that factors contribute to an organization’s participation level in the PAC including economy, development environment, member organization staffing, and agenda topics, and these factors change over time.

The annual review of PAC committee representation was discussed during the PAC meeting on November 13, 2014. PAC members were in agreement that the current composition is satisfactory and recommended that the composition be unchanged in 2014. Staff concurs with the PAC recommendations. Consideration and determination by the Board is requested.

PAC Composition

The current composition of the Public Advisory Committee includes one representative from each organization listed below, except where a specific individual is named:

Private permit seekers, (e.g., private developers or their representatives)

- East Bay Leadership Council
- Discovery Builders
- Home Builders Association of Northern California

Conservation advocates, (e.g., established organizations that represent members in the inventory area)

- California Native Plant Society
- Friends of Marsh Creek Watershed
- Save Mount Diablo

Private landowners and/or agriculturalists, or their representatives

- Agricultural/Natural Resources Trust of Contra Costa County
- Contra Costa County Citizens Land Alliance
- Contra Costa County Farm Bureau

People representing suburban and rural residents of the Plan area

- Dick Vrmeer (Resident of Brentwood)

- Sharon L. Osteen (Resident of Clayton)
- Kelly Davidson (Resident of Clayton)

Staff members from interested public agencies and members of the public are welcome to attend and participate in committee meetings. Despite formal membership, members of the public are welcome to participate in discussions and be part of committee recommendations.

PAC Activities

The Conservancy Governing Board, at the October 27, 2014 meeting, requested additional information about and details of the Public Advisory Committee. The PAC has met quarterly since 2008 and has received presentations, discussed Conservancy issues and developed policy positions on a range of items. Additional items are informational and/or are updates of issues discussed at Governing Board meetings. The Board made three major policy referrals to the PAC in 2013/2014 (see “*” marked items in the list below). The topics that were referred to the PAC from the Governing Board include: small projects policy, contribution to recovery policy, and the review of the draft Assessment of Plan Effects on California Environmental Quality Act (CEQA) Species.

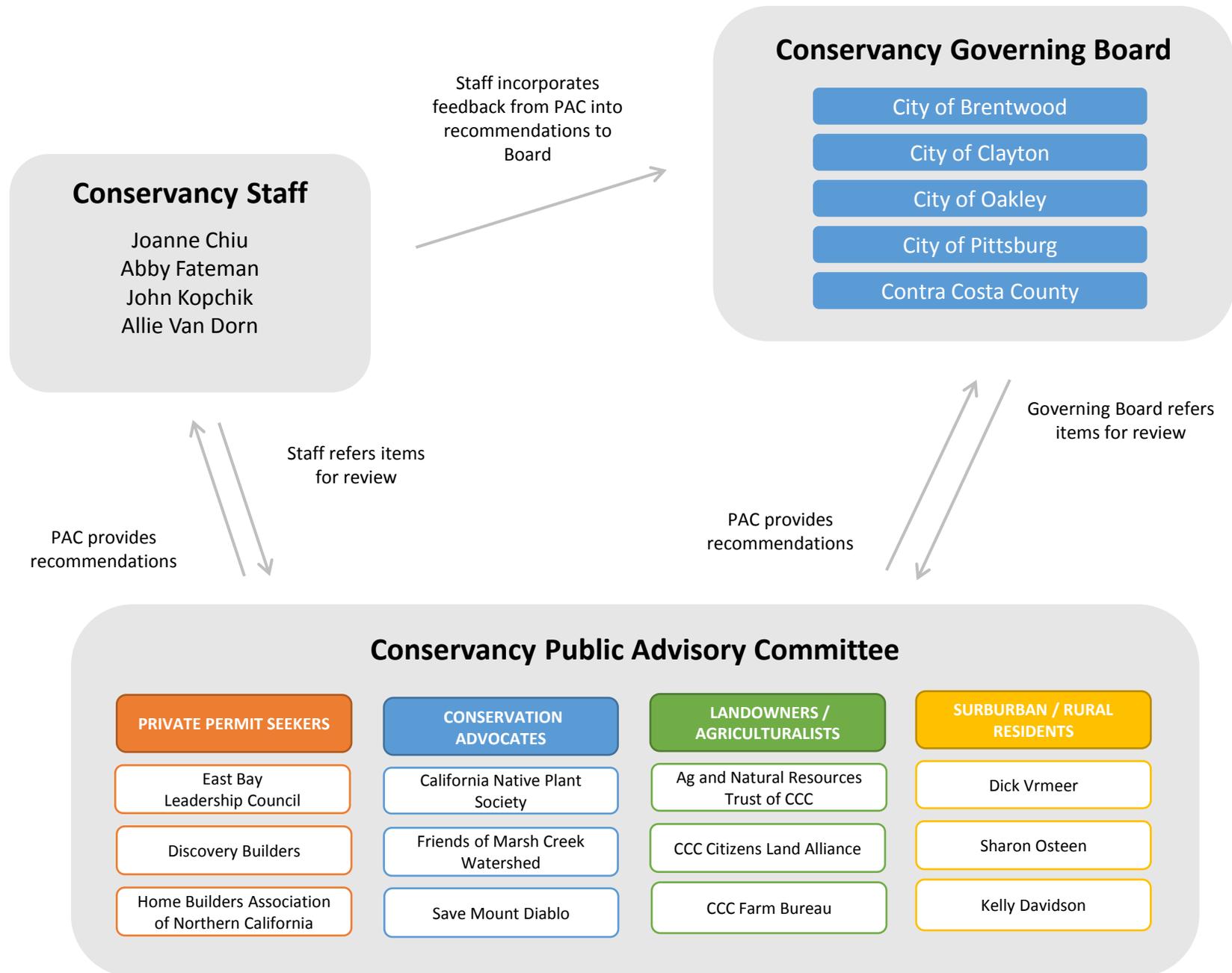
Update and information items from 2013/2014 PAC meetings include:

- Governing Board and permitting updates
- Restoration Project Updates
- Acquisition Updates
- Legislative Updates
- Secretary Jewell Update/recap
- Field trip to Conservancy Preserve: Vaquero Farms North property
- Field Trip to Conservancy Preserve: Ang and Irish Canyon properties
- Workplan preview (annually)
- Presentation: Golden Eagle satellite tracking study being conducted by EBRPD in partnership with the Conservancy.
- *Development of policy recommendation to Governing Board on the need and opportunities for simplifying and expediting the process for Conservancy review of small projects and making various determinations required of the HCP/NCCP Implementing Entity
- *Development of policy on determining consistent Contribution to Recovery fees for Participating Special Entities
- *Consideration of “Draft Assessment of Plan Effects on California Environmental Quality Act (CEQA) Species” and solicitation of comments on the document.

Attachment:

Organization chart showing the Public Advisory Committee’s relationship to the Governing Board and Staff.

East Contra Costa County Habitat Conservancy Public Advisory Committee Relationship to Governing Board and Staff



**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 8, 2014
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Conservancy Work Plan – 2014 Summary & 2015 Work Plan

RECOMMENDATION

APPROVE the 2015 Conservancy Work Plan.

DISCUSSION

The Conservancy Work Plan: 2014 Summary and 2015 Work Plan provide both a summary of tasks initiated and completed in 2014 and tasks planned for 2015 (attached).

Section 8.11 of the HCP/NCCP provides a schedule for implementation, forecasting tasks for the first year, five-year periods during the 30 year term of the Plan, and beyond year 30 of HCP/NCCP implementation. The HCP/NCCP also provides a list of the duties of the implementing entity (the Conservancy) in Section 8.3. Based on this information and experience gained during implementation of the HCP/NCCP, staff has developed the 2015 Conservancy Work Plan.

As mentioned, the Work Plan not only describes prospective tasks but also includes a summary of work performed in 2014. The “Actions Taken in 2014” column describes the type of work that has been completed and the end result for actions taken in 2014. The “Actions Proposed for 2015” column provides the goals and type of work planned in 2015. For the more complex tasks, the Work Plan attempts to provide a sense of the general approach recommended.

CONTINUED ON ATTACHMENT: <u>Yes</u> ACTION OF BOARD ON: <u>December 8, 2014</u> OTHER: _____	APPROVED AS RECOMMENDED: _____
<u>VOTE OF BOARD MEMBERS</u> <input type="checkbox"/> UNANIMOUS AYES: _____ NOES: _____ ABSENT: _____ ABSTAIN: _____	
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN. ATTESTED _____ <i>John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</i>	
BY: _____, DEPUTY	

Some noteworthy features of the 2015 Work Plan include the following:

Antioch HCP Development: In September 2014, U.S. Fish and Wildlife Service announced a grant to the California Department of Fish and Wildlife to provide the City of Antioch an award for \$688,000 to assist with the development of an Antioch HCP/NCCP. In 2015, Conservancy staff will engage City of Antioch staff to support and guide the development of an Antioch HCP/NCCP.

Wetland Permitting: With the U.S. Army Corps of Engineer's issuance of the Regional General Permit (RGP) related to the HCP/NCCP in 2012, and the associated Biological Opinion issued by U.S. Fish and Wildlife Service, the critical priorities are completing the In Lieu Fee Agreement with Corps (and possibly other agencies) to ensure HCP/NCCP fees satisfy multiple regulatory requirements over the long term and securing programmatic certification of the RGP by the State and Regional Water Boards. In 2015, Conservancy staff will focus on working with the State Water Quality Control Board to develop regional 401 permit streamlining that will be compatible with the East Contra Costa County HCP/NCCP.

Land acquisition: With market conditions continuing to be favorable and various grants nearing expiration, land acquisition will continue to be a priority.

Recording Deed Restrictions: The Conservancy has worked with the East Bay Regional Park District, U.S. Fish and Wildlife Service and California Department of Fish and Wildlife to record deed restrictions on properties that are part of the Conservancy's Preserve System. Two properties have completed deed restriction recordation. Staff will work with partner agencies to complete deed restriction recordation on the remaining 26 properties.

Restoration: Restoration/creation activities will proceed on three scales in 2015: a) initial planning will commence on one or more larger projects for consideration in the future, b) construction of a small pond restoration project in coordination with the Natural Resources Conservation Service (Ang property) as well as other rangeland management improvements, and c) explore opportunities for coordination with East Bay Regional Park District on one or more small/simple adaptive management and maintenance projects in the late summer.

Preserve Management and Management Planning: The first preserve management plan has been drafted and Conservancy staff are working with the wildlife agencies and East Bay Regional Parks District to finalize and implement initial actions of the plan. The plan will be presented to the Conservancy Governing Board in 2015 for approval. Conservancy staff plan to initiate a second preserve management plan that will cover the western portions of the Preserve System.

Questions, comments and guidance from the Board on the Draft Work Plan are welcomed.

Attachment:

- Conservancy Work Plan: 2014 Summary and 2015 Work Plan

DRAFT Conservancy Work Plan: 2014 Summary and 2015 Work Plan

	TASK	ACTIONS TAKEN IN 2014	ACTIONS PROPOSED FOR 2015
<i>Program Administration (General)</i>			
1	<p>Increase public awareness of the Plan and provide opportunities for involvement in the implementation of the Plan by the public, interested agencies, and others.</p>	<p>PAC meetings were held quarterly. The Conservancy continued to publicize activities via its website and other means.</p> <p>Created the 2013 Year in Review document to accompany the 2013 Annual Report which provides a graphical, easy to digest summary of accomplishments related to project permitting, wetland coordination, land acquisition, habitat restoration and creation, funding and partners. The document was distributed via an augmented mailing list including local elected officials.</p> <p>The Conservancy and EBRPD hosted the U.S. Interior Secretary Sally Jewell for a public meeting on the preserve system in May, which served as an opportunity to share the Conservancy's accomplishments since passage of the NCCP Act. This event was covered by Bay Nature, The Contra Costa Times and various other local media outlets.</p> <p>Lead panel at the Northern California Conservation Planning Partners' 12th annual Habitat Conservation Planning from Tahoe to the Bay workshop on November 19th.</p> <p>Press release in August regarding the discovery of the largest known population of Lime Ridge navarretia (<i>Navarretia gowenii</i>) on the preserve system near Black Diamond Mines Regional Preserve.</p> <p>Conservancy staff assisted the City of Antioch in pursuit of Section 6 Planning Grant funds for the development of an Antioch HCP. The City of Antioch was awarded Section 6 funds in September. In October, the Conservancy Board authorized a letter to the City of Antioch documenting the Conservancy has available match funding of up to \$100,000.</p>	<p>PAC meetings will continue to be held quarterly.</p> <p>Conservancy will continue using the website to communicate with the public. Staff will pursue greater media coverage of Plan activities to improve awareness by the public at-large. A Year in Review document will be prepared for 2014 to accompany the 2014 annual report.</p> <p>Conservancy staff will continue to assist Antioch with the development of the Antioch HCP which could be coordinated with the ECCC HCP/NCCP, leading to more consistent permitting in the region and perhaps in cost efficiencies.</p> <p>Coordinate and collaborate with Save Mount Diablo on joint property ownership hikes, events and volunteer opportunities.</p> <p>Develop press releases as opportunities present themselves.</p>

DRAFT Conservancy Work Plan: 2014 Summary and 2015 Work Plan

	TASK	ACTIONS TAKEN IN 2014	ACTIONS PROPOSED FOR 2015
2	Develop a Conservancy Volunteer Program and Implement Volunteer Activities	Continued work to involve volunteers including investigating opportunities and objectives with the PAC. Worked with Save Mount Diablo volunteers to implement and monitor the Irish Canyon Restoration Project and collect plant material for the Hess Creek Restoration Project.	Ongoing development of the volunteer programs with a goal to expand volunteer hours, range of volunteers' tasks and overall public involvement in the HCP/NCCP. Continue to collaborate with Save Mount Diablo and other volunteer groups and organizations to implement planting and plant maintenance as well as plant surveys.
3	Develop and maintain annual budgets and work plans. Prepare and submit an annual report to CDFW and USFWS.	Conservancy Staff prepared the 2014 annual budget and the 2014 work plan for Board discussion in January 2014. Conservancy prepared and published the 2013 Annual Report in the spring of 2014.	Conservancy Staff prepared the 2015 annual budget and this 2015 Work Plan for Board discussion in December 2014. The 2016 versions of these documents will be prepared for Board consideration in December 2015. Conservancy will also prepare and publish the 2014 Annual Report.
4	Calculate the amounts of automatic annual fee adjustments and distribute these calculations to Permittees by March 15 of each year, in accordance with Chapter 9 of the HCP/NCCP.	The calculations for the 2014 automatic annual fee adjustments were performed and applied to Conservancy's fee schedule and the cities/County fee schedule (the schedules are currently different with respect to wetland fees because the Conservancy approved the 2011 Periodic Fee Audit in July 2011 but action by cities and the county on fees is pending). In July 2012, the Conservancy Board determined to commission a second periodic fee audit. That audit was released for public review in December 2012 and was considered by the Board in January 2013 and April 2013. The Board approved the 2013 Audit in July 2013 and made a recommendation to the cities/County on fees.	Perform the calculations for the 2015 automatic annual fee adjustments.
5	Pursue State, Federal, foundation and other grants to assist in funding preserve acquisition and other implementation tasks.	Conservancy Staff continued to research and apply for available grant money which made up a significant portion of the funding for implementation of the HCP/NCCP during 2014. Around \$2 million in new grants were approved in 2014. Conservancy staff successfully assisted the City of Antioch in pursuit of \$688,000 in Section 6 funds.	Conservancy staff will continue to research and apply for available grant money which will make up a significant portion of the funding for implementation of the HCP/NCCP during 2015. Staff will apply for Section 6 funds and for various non-federal grant funds that can match the Section 6 funds and/or fund Conservancy's activities.

DRAFT Conservancy Work Plan: 2014 Summary and 2015 Work Plan

	TASK	ACTIONS TAKEN IN 2014	ACTIONS PROPOSED FOR 2015
6	Administer grants already awarded.	Grant revenues for acquisition actually received in 2014 is estimated at \$1.55 million, requiring a number of agreements, invoices, forms and other grant management duties. Since 2007, the total grant funding approved for the Conservancy is greater than \$51 million, with almost \$43.5 million of that spent to date and around \$7.5 million remaining.	Staff will continue with these tasks in 2015.
7	Coordinate with other Regional HCPs and pursue a legislative program that will aid the Conservancy's implementation of the Plan.	<p>As part of ongoing participation in the coalition of northern California HCPs (NCCPP), staff assisted in hosting its annual conference in Vacaville in November.</p> <p>Continued active participation with the California Habitat Conservation Plan Coalition (CHCPC) which is coordinating efforts across the state to improve funding opportunities for HCPs, promoting coordination of wetlands permitting with HCPs and share lessons learned among HCPs.</p> <p>Implemented 2014 Legislative Platform and attended annual CHCPC legislative trip to Washington in April and intensively collaborated with CHCPC on efforts to restore funding for the Section 6 program, working with Congressman McNerney who led efforts in the House. Proposed 2015 Platform.</p>	<p>Continue to participate in the CHCPC to pursue common policy objectives and to learn from the experiences of other HCP's.</p> <p>Attend NCCPP conference and CHCPC meetings in 2015.</p> <p>Implement 2015 Legislative Platform, including an emphasis on Section 6 funding levels in Congress, accessing Proposition 84 funds through the Wildlife Conservation Board and coordinating species and wetlands permitting. Work with other HCP's to explore challenges associated with creating effective endowments to fund long term management, including potential obstacles to reasonable rates of investment return.</p>
8	Provide accounting services for the Conservancy.	Staff continued to manage Conservancy finances. The Conservancy conducted an audit of the 2013 Financial Statements. The auditor's written statements were presented to the Board and filed with appropriate agencies.	As well as preparing the 2016 Budget and managing finances consistent with the approved Budget for 2015, day to day management of debits and deposits will continue. The Conservancy will conduct an audit of the 2014 Financial Statements. The auditor's written statements will be presented to the Board.

DRAFT Conservancy Work Plan: 2014 Summary and 2015 Work Plan

	TASK	ACTIONS TAKEN IN 2014	ACTIONS PROPOSED FOR 2015
9	Pursue regional permits and permitting programs for jurisdictional wetlands and waters with the appropriate state and federal agencies to help ensure coordination between implementation of the HCP/NCCP and the implementation of state and federal wetlands regulations.	<p>Progress made in 2013 continued in 2014. The Sacramento District of the U.S. Army Corps of Engineers issued a Regional General Permit (RGP) linked to the HCP/NCCP in May 2012. A number of public and private projects have been permitted under the RGP since it was approved. The Corps also approved a short term mechanism which relies on the Conservancy's exiting restoration projects to enable payment of HCP fees by applicants to satisfy Corps regulatory requirements. This interim procedure will continue as approved for use until the adoption of an In-Lieu Fee Instrument by the Corps and Conservancy to formalize the Fee program and procedures.</p> <p>The Conservancy continued to coordinate with the Water Boards (State, San Francisco Bay and Central Valley) and the Corps and USEPA seeking to conclude years of interagency work to coordinate the RGP and HCP/NCCP with the state's responsibilities for Section 401 of the Clean Water Act and the Porter Cologne Act. The Conservancy was invited to work with the Water Boards in drafting a programmatic certification of the RGP that would address the state wetland regulatory process and that work is in progress. The Water Boards have also expressed interest in participating in development of the In Lieu Fee Instrument. The Conservancy hosted several field trips for wetland agencies.</p>	Pursue as a top Conservancy priority the goal of completing regional permitting instruments in 2015 including 401 Water Quality Certification of the RGP (or other equivalent regional permitting device) from the Water Boards and development and execution of an In-Lieu Fee Instrument (agreement) to link the Conservancy's fee collection and conservation activities to implementation of the various new permits.
<i>Program Administration (HCP/NCCP Permit Issuance)</i>			
10	Develop and update the template Planning Survey Report (PSR) Application	Additional review and revision is on-going based on experiences with projects that have used the form as well as modifications based on new policies and requirements. Staff drafted an updated template in 2014 to be made available to applicants in early 2015.	Continue to use and update the template as necessary. Continue to seek feedback from users.

DRAFT Conservancy Work Plan: 2014 Summary and 2015 Work Plan

	TASK	ACTIONS TAKEN IN 2014	ACTIONS PROPOSED FOR 2015
11	Provide training to local jurisdictional staff on HCP/NCCP applications. Assist local jurisdictions to ensure that project proponents comply with the provisions of the Plan, including performance of required avoidance, minimization and mitigation measures.	Staff continued to coordinate with local jurisdiction staff to discuss updates and HCP/NCCP application processing and continued to provide assistance and technical support in 2014. Staff held regular meetings with the Contra Costa County Public Works Department, Environmental Unit Staff, in order to assist with facilitation of HCP/NCCP applicability to the County's many road and flood control projects.	Coordination, training and outreach efforts will continue in 2015. As the pace of permits appears to be increasing, the level of effort for this task may need to increase.
12	Implement Permitting Program: Process applications for coverage under the HCP/NCCP, tracking performance of required avoidance, minimization and mitigation measures.	The Conservancy reviewed and approved applications by Participating Special Entities for take coverage under the HCP/NCCP and oversaw implementation of agreements. The Conservancy assisted other local jurisdictions with their take coverage activities by providing technical input and by reviewing and offering advice on numerous Planning Survey Applications. The Conservancy reviewed and approved Construction Monitoring Reports submitted by covered activities and worked with numerous project proponents on the details of their avoidance and minimization procedures in cases where species were present.	Efforts are on-going and will continue in 2015.
13	Prepare report documenting the expected benefits of the HCP/NCCP to non-covered special-status species to provide streamlining for future CEQA documents.	A public draft of this document was made available October 2014.	Expected to finalize this document early 2015.
14	Expand GIS database to track land acquisitions and Permitting Program database to track projects, impacts, and take coverage.	Staff maintained the GIS database and covered project tracking database throughout 2014.	Staff will continue to maintain and improve the GIS and covered project tracking databases. The possibility of developing a more interactive financial database will also be pursued to simplify the preparation of materials for audits and other reports requiring financial information.

DRAFT Conservancy Work Plan: 2014 Summary and 2015 Work Plan

	TASK	ACTIONS TAKEN IN 2014	ACTIONS PROPOSED FOR 2015
<i>Preserve Acquisition and Management</i>			
15	Continue to acquire land to assemble Preserve System and meet Stay Ahead requirements as described in Section 8.6.1	<p>Conservancy staff will continue to work with acquisition partners. The East Bay Regional Park District has been the primary partner and detailed coordination and cost-sharing will continue. The Conservancy will also continue to coordinate with other potential partners such as Save Mount Diablo, State Parks, Contra Costa Water District, Agricultural-Natural Resource Land Trust of Contra Costa County, Brentwood Agricultural Land Trust, the Natural Heritage Institute, cities such as the Cities of Oakley and Brentwood with potential preserves in their boundaries and private mitigation banks to learn of their current acquisition efforts and explore opportunities for partnering.</p> <p>Conservancy will continue following general approach to land acquisition used in previous years: (a) seek partners such as EBRPD willing to be responsible for assisting with the fund-raising and willing to be the land owner and land manager or easement holder (or to find another entity to serve that role) so that the Conservancy can avoid actually owning and managing land or easements in perpetuity, (b) maintain an "Open Door Policy" and be willing to consider proposals from a range of partners, (c) once a prospective partner has found a willing landowner and established a price, the Conservancy should evaluate the cost effectiveness of the acquisition in achieving HCP goals, develop a proposed acquisition cost-share and strategy for ensuring management and monitoring, evaluate the pros and cons of the overall package and consider approving or disapproving Conservancy participation in the acquisition.</p>	
16	Develop a mutually agreeable programmatic strategy with East Bay Regional Park District (EBRPD) to collaborate on land acquisition and management in the HCP area.	EBRPD is implementing its Master Plan and is buying land in the inventory area for park and open space purposes. Voters approved EBRPD's Measure WW in 2008, providing significant new capital to support this work. Continuing to partner with EBRPD will help to ensure that the land acquisition and management goals of EBRPD's land program and the similar goals of the HCP/NCCP are implemented in a coordinated manner (this goal is set forth in Section 13.6 of the Implementing Agreement). Conservancy staff and EBRPD staff have been discussing partnership opportunities and believe, for the time-being, that partnership opportunities should be addressed case by case because the details are numerous and specific to the parcel in question. Coordination has been excellent so far and numerous agreements have been completed to address specific acquisition and restoration projects.	
17	Conduct pre-acquisition assessments and post-acquisition detailed biological assessments of potential acquisitions to determine their biological value for the HCP.	Conservancy Staff and consultants developed protocols and practices for a phased and more streamlined approach to this task that defers the most expensive field work until after property is purchased. In 2014, assessments of preserve system lands included detailed, thorough surveys for wetlands and covered plants.	In 2015, the pre-acquisition assessments and resource inventories will continue. These surveys are essential to ensure HCP/NCCP requirements are being met.

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	TASK	ACTIONS TAKEN IN 2014	ACTIONS PROPOSED FOR 2015
18	Create template Conservation Easement Deeds and Deed Restrictions and other protective covenants to speed-up addition of land to the Preserve System and to protect the interests of the Conservancy in land it acquires.	In 2014, staff continued to work with the Wildlife Agencies and EBRPD to develop a Restrictive Covenant template that EBRPD and the Wildlife Agencies have approved. Recording of restrictive covenants on the two most recent property acquisitions (Smith and Roddy Ranch) will be completed before the end of this year. A basic Conservation Easement template was developed in previous years which could be adapted and used on properties not owned by EBRPD.	EBRPD recording of the required deed restrictions on preserved lands will continue in 2015.
19	Develop and begin to implement a strategy for funding the long term management of the Preserve system before 50% of the authorized take under the maximum urban development area is used or before the end of year 15 of implementation, whichever comes first. Provide progress reports on this matter in the Annual Report.	This a critically important long term task that must be confronted as early as possible during implementation. To date, some significant steps have been made toward addressing this issue. The Conservancy and District acquired properties with cumulative annual lease revenue of approximately \$500,000 (year to date actuals amount to \$425,859 as of 11/20/2014) and agreed that a portion of this lease revenue would be set aside for long-term management. Contributions to Recovery collected from Participating Special Entities can also be applied in part to long-term management. The action taken by the Conservancy Board in the 2013 Fee Audit also called for an acceleration of planning for funding long-term management, calling for completing this work before the Year 10 Fee Audit (2017).	Work on this effort will continue in 2015 including development of management plans which help us begin to improve the estimates in the HCP/NCCP of long term management costs. The Conservancy will also work with other agencies and possibly seek a grant to examine opportunities for maximizing rate of return on endowments.
20	Develop management plans for the Preserve System and individual preserves.	Staff held a series of meetings with EBRPD to develop the first preserve management plan for the Preserve System, the Vasco Hills - Byron Vernal Pools Preserve Management Plan. The working draft VHBVP incorporates recreation, exotic plant and monitoring elements that subsequently also be addressed at the system-wide level. The wildlife agencies reviewed and provided input. Staff worked to incorporate all edits.	In 2015, the next step on the Preserve Management Plan is to present the plan draft to the PAC and the Conservancy Board. A second preserve management plan covering other portions of the Preserve System will be initiated in 2015.

DRAFT Conservancy Work Plan: 2014 Summary and 2015 Work Plan

	TASK	ACTIONS TAKEN IN 2014	ACTIONS PROPOSED FOR 2015
21	Implement management plans for the Preserve System and individual preserves.	With preserve management planning in progress and numerous recently-acquired properties to assess, preserve management activities generally continued past practices. EBRPD institutes new grazing leases as lands are acquired. EBRPD and the Conservancy coordinated on an as-needed basis with efforts such as milk thistle eradication, rare plant propagation, fuel management, potential riparian exclosures, cattle watering systems, needed culvert replacements and failing spring boxes. EBRPD conducted day to day management of the Preserve system, including ranger patrols, fire and law enforcement supervision, supervision of grazing tenant, maintaining and replacing fences and gates and addressing hazards to people and wildlife in the new preserves.	Interim management procedures will continue and expand as management plans are completed. With significant blocks of preserve lands now assembled, management obligations will increasingly need to be addressed, though land contiguity will improve efficiency.
22	Prepare an Exotic Plant Control Plan to address exotic and invasive plants on Preserve System lands.	Several exotic plant control activities have been planned and implemented on a project-by-project basis until preserve management plans and the system-wide Exotic Plant Control Program are developed.	The initial Exotic Plant Control Program will be developed as an element within the Vasco Hills - Byron Vernal Pools Preserve Management Plan and subsequently expanded. This plan will likely be based on and coordinated with existing policies and programs such as the East Bay Regional Park District's Integrated Pest Management Plan.
23	Prepare a Recreation Plan to address recreational uses on Preserve System lands.	Recreation needs, opportunities and constraints were identified as land has been acquired. The Vasco Hills - Byron Vernal Pools Preserve Management Plan is including comprehensive evaluation of and planning for public access.	Experience thus far with implemented Plan, suggests that it may not be advisable to have a separate and detailed system-wide recreation plan as the details of recreation are better evaluated and planned for in the context of the more localized preserve management plans.

DRAFT Conservancy Work Plan: 2014 Summary and 2015 Work Plan

	TASK	ACTIONS TAKEN IN 2014	ACTIONS PROPOSED FOR 2015
<i>Habitat Restoration/Creation</i>			
24	Design habitat restoration and creation projects and perform additional environmental compliance for habitat restoration if needed.	Like land acquisition, habitat restoration and creation continues to be a key program area for the Conservancy. If restoration and creation of jurisdictional wetlands and waters does not keep pace with impacts, the ability to mitigate such impacts by paying a fee will be suspended. Likewise progress on this task is an essential foundation to completion of efforts to coordinate wetlands permitting with the HCP. Staff worked with consultants and other partners to assess acquisitions for restoration opportunities.	Staff will work with consultants and other partners to assess new acquisitions for restoration opportunities and to explore and develop restoration concepts for future restoration projects.
25	Implement habitat restoration and habitat creation projects.	In 2014, the Conservancy focused on construction of one large project. Staff worked with maintenance crews to adaptively manage recently constructed habitat restoration projects. The Hess Creek Channel Restoration project completed construction in October 2014.	One restoration project was designed in 2014 for probable 2015 construction: riparian habitat restoration, pond repair and improved cattle watering on Ang.
<i>Monitoring and Adaptive Management Program</i>			
26	Design Monitoring and Adaptive Management Program.	Preserve monitoring and adaptive management measures were designed as part of development of the Vasco Hills - Byron Vernal Pools Preserve Management Plan. In addition, the Conservancy designed adaptive management measures for restoration projects. Conservancy staff worked with consultants to design a small erosion repair on Souza 2, and constructed it in 2014.	Work on this effort will continue through 2015. The components of a comprehensive monitoring strategy are being developed as part of the Vasco Hills - Byron Vernal Pools Preserve Management Plan, which will be released for comment in 2015.
27	Monitoring and adaptive management of restoration projects and new preserves.	The previously constructed restoration projects were monitored throughout 2014. Ongoing drought has delayed a number of restoration projects from reaching success criteria from original time frame. A \$250,000 portion of the \$2.25 million grant received from the Gordon and Betty Moore Foundation is to study the impacts of turbines on avian species and methods for reducing these impacts. The Board approved a collaborative project with EBRPD to attach GPS units to golden eagles as a first project to be carried out under the grant.	Monitoring on all projects will continue. The Souza 1 and Lentzner sites have been monitored for 5 years and the frequency of site visits will decrease. The Golden Eagle Study will continue in 2015.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 8, 2014
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Legislative Issues

RECOMMENDATION

- a) ADOPT the 2015 Legislative Platform;
- b) ADOPT Resolution 2014-03 to support working together with agencies from across California to request that the United States Congress restore overall funding of the U.S. Fish and Wildlife Service Cooperative Endangered Species Fund from approximately \$50 million to \$80 million in the Fiscal Year 2016 Interior and Related Agencies Appropriations bill;
- c) AUTHORIZE the Chair or staff, as appropriate, to communicate items on the Platform to relevant members and staff of the U.S Congress and the California Legislature, relevant federal and state agencies, potential advocacy partners and others;
- d) AUTHORIZE payment of \$5,000 as membership dues for the California Habitat Conservation Planning Coalition in 2015.

DISCUSSION

Item (a): The Legislative Platform contains specific policy statements pertaining to eight issues affecting the ongoing progress of East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan and the utility of the ECCC HCP/NCCP for local agency planning needs. Conservancy staff has participated in several statewide meetings of representatives of and advocates for HCPs and NCCPs in northern and southern California, and as a result it is expected that nearly all items on the Platform will be jointly pursued by the statewide HCP coalition, the California Habitat Conservation Planning Coalition (CHCPC or Coalition). The Governing Board has previously approved supporting positions on items 1-8 proposed in the Platform. However, the language has been updated throughout the Platform and a new item 9 and 10 have been proposed as a consequence of the recent voter-approved water bond and the park bond proposals under consideration by the State. Conservancy staff recommends approval of the Platform to affirm those policy positions and provide clear documentation of them.

CONTINUED ON ATTACHMENT: Yes
 ACTION OF BOARD ON: December 8, 2014
 OTHER: _____

APPROVED AS RECOMMENDED: _____

VOTE OF BOARD MEMBERS

___ UNANIMOUS
 ___ AYES: _____
 ___ NOES: _____
 ___ ABSENT: _____
 ___ ABSTAIN: _____

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.

ATTESTED _____
*John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY
 HABITAT CONSERVANCY*

BY: _____, DEPUTY

Item (b): Conservancy staff is also recommending approval of Resolution 2014-03 which is a formal expression of Item 1 on the 2015 Legislative Platform suitable for submission to Members of Congress and the federal administration. Resolution 2014-03 is virtually identical to the resolution approved last year.

Item (c): If the Governing Board approves the 2015 Platform and Resolution 2014-03, staff is also recommending that the Board authorize these positions to be communicated to appropriate parties through written communication and attendance of meetings. Staff is recommending that this authorization extend to signing coalition letters consistent with the 2015 Platform, including such letters that do not request a specific dollar amount or that request a lesser dollar amount (CHCPC legislative affairs experts believe it may be more strategic to stress in certain communications the need to restore funding without requesting a specific dollar amount).

A Conservancy representative has been invited to attend a short trip to Washington D.C. in March of 2015 as part of continued California Habitat Conservation Planning Coalition (CHCPC) efforts to advocate for Platform issues, Items 1-3 and 5, 7 and 8 and Conservancy staff would propose to attend as occurred in previous years. The costs of such a trip would be covered within the proposed 2015 Conservancy Budget.

Item (d): Staff is recommending payment of CHCPC's \$5,000 membership dues again for 2015. Our continued participation with the California Habitat Conservation Planning Coalition is an effective and cost-effective means for pursuing the Conservancy's Legislative Platform as the work of the Coalition is very consistent with the Conservancy's Legislative Platform.

During 2014, the California Habitat Conservation Planning Coalition's sixth year, the Coalition pursued support for an increase in HCP land acquisition grant funding by engaging the U.S. Fish and Wildlife Service and the U.S. Department of the Interior in conversations on budgets for these grants. This work included orchestrating a Washington D.C. advocacy trip, coordinating the visit to the Conservancy Preserve System by Sally Jewell, Secretary of the U.S Department of the Interior, hosting an annual conference in Temecula which included Assistant Director of the USFWS Gary Frazer, hosting numerous conference calls, and preparation of a wide variety of documents to pursue the Coalition's and Conservancy's legislative agendas. The Coalition's FY2015 briefing book on the request to increase funding for Federal Section 6 grants is attached (please note, the briefing book will be updated in the next few months to reflect the FY2016 request). These activities were carried out through the participation of many individuals in work groups and through considerable pro-bono staff time provided by the Institute for Ecological Health as well as by dues paid by members. Several documents are attached to provide more information on the voluntary contributions and the products the Coalition has generated recently.

Each year, a CHCPC member agency takes a turn hosting the Coalition's annual meeting and provides presentations and field visits that help other members understand how the host's plan works, what its challenges have been, and any innovative solutions. These meetings have provided very helpful lessons learned about a fairly unique field work - implementation of local government HCP/NCCPs. Conservancy staff has attended prior year workshops in the Coachella Valley, San Diego County and Riverside County. A California Implementing entity typically hosts the annual workshop. Staff recommends that the Conservancy attend the 2015 meeting. The cost of attending the workshop is reflected in the Proposed 2015 Budget (assumed to be in southern California for budgeting purposes.)

Attachments:

- Proposed 2015 Conservancy Legislative Platform

- Resolution 2014-03
- CHCPC's Briefing Book for the FY2015 Section 6 campaign (this is the document for last year, it is being updated for FY2016)
- Document explaining CHCPC Voluntary 2015 Membership Contributions
- 4-4-14 Dear Colleague letter from Members of Congress to the Chair and Ranking Member of the House Interior Appropriations Subcommittee



EAST CONTRA COSTA
COUNTY HABITAT
CONSERVANCY

2015

Federal & State Legislative Platform

The 2015 Legislative Platform of the East Contra Costa County Habitat Conservancy describes the policy position of the Conservancy on state and federal legislative matters pertaining to the successful and effective implementation of the East Contra Costa County Habitat Conservation Plan (HCP) / Natural Community Conservation Plan (NCCP).

City of Brentwood

City of Clayton

City of Oakley

City of Pittsburg

Contra Costa County

SUMMARY

In 2015, the East Contra Costa County Habitat Conservancy will support and advocate for the following legislative or policy actions in the state and federal governments:

- Item 1:** *Advocate* restoring funding for the Cooperative Endangered Species Conservation Fund to \$80 million in FY16, an increase relative to the \$50 million appropriated in FY14 but a decrease from the \$85 million appropriated in FY10 that is commensurate with, and not more severe than, the overall reduction in federal spending.
- Item 2:** *Request* recognition of Habitat Conservation Plans as a reliable way of streamlining critical infrastructure and economic stimulus projects in a manner that is consistent with federal environmental regulations and in the process creating many “green” jobs.
- Item 3:** *Advocate* implementation of the revised grant guidelines for the U.S. Fish and Wildlife Service Section 6 Grant Program so that a significant portion of the Conservancy’s fee funds can be used as match.
- Item 4:** *Request* the California Wildlife Conservation Board to continue its financial support for Conservancy projects with the goal of growing the over \$11.5 million approved so far to an overall contribution of \$20 million over the next several years. Such funding would help the State and the Conservancy meet the required non-federal match for the State and Conservancy’s three approved and active Section 6 grants. \$90 million in State funding has already been earmarked in the voter-approved Proposition 84 for Natural Community Conservation Plans.

- Item 5:** *Advocate* for consideration of HCP/NCCPs as a suitable means for fulfilling the requirements of SB375.
- Item 6:** *Advocate* for HCP/NCCPs to be viewed as a suitable place to spend funds collected pursuant to future state and federal climate change legislation as HCP/NCCPs effectively mitigate impacts of climate change by providing for ecological adaptation.
- Item 7:** *Advocate* for HCP/NCCPs to be viewed as critical partnerships and flagship programs that should receive increased support and elevated stature at the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.
- Item 8:** *Advocate* for coordination of state and federal wetland regulations and regulatory programs with HCP/NCCPs in order to improve the overall efficiency, predictability, and effectiveness of natural resource regulation.
- Item 9:** *Advocate* for HCP/NCCPs to be eligible for funding from the watershed protection component of the voter-approved Proposition 1, the Water Bond.
- Item 10:** *Advocate* for HCP/NCCPs to be specifically recognized in a potential future California Park Bond and allocated significant funding equal to or greater than earlier measures such as Proposition 84 (\$90 million), if such Park Bond is proposed and approved by the voters.

2015 LEGISLATIVE PLATFORM DETAILS

Item 1: Regional Habitat Planning and Conservation – U.S. Fish and Wildlife Service’s Cooperative Endangered Species Conservation Fund.

LEGISLATIVE POSITION:

In recognition of the tremendous need for a continued federal investment in cooperative partnerships providing funds for threatened and endangered species work by nonfederal partners and assisting growth of local economies and jobs, and in partnership with other counties in northern and southern California, we request that the United States Congress place special emphasis on the Cooperative Endangered Species Conservation Fund (CESCF) program in FY16 by providing \$80 million in the FY16 Senate Interior, Environment and Related Agencies Appropriations Bill. This funding level would restore much of the cut from the last four years, but still be less than the FY10 appropriations of \$85 million, a percentage reduction equivalent to the overall decrease in federal appropriations over that period. The CESCF appropriations exceeded \$100 million per year over a decade ago. Given the growth in the number of Habitat Conservation Plans, the CESCF ultimately needs to be funded at even higher levels. If the President proposes more than \$80 million for the CESCF for FY2016, the Conservancy will support the President’s request.

BACKGROUND:

With over 80 percent of threatened and endangered species habitat found on non federal lands, the Cooperative Endangered Species Conservation Fund (CESCF) has been one of the most successful grant programs of the U.S. Fish and Wildlife Service (USFWS). Authorized under Section 6 of the Endangered Species Act, the CESCF represents a vital tool for ensuring cooperative partnerships between the federal government, states and nonfederal partners for the protection and conservation of threatened and endangered species.

The CESCF program includes grant funding to states through three sub accounts - HCP Planning Assistance Grants, HCP Land Acquisition Grants, and Recovery Land Acquisition Grants. The land acquisition programs focus on those lands that have greatest potential to benefit species at risk. The HCP planning and land acquisition grants have been very important for the preparation and implementation of large-scale HCPs in California.

The Conservancy has been the beneficiary of eight CESCF land acquisition grants providing a total of \$35,494,990 toward critical land acquisition under the East Contra Costa County HCP/NCCP. CESCF funds spent to date have contributed toward the acquisition and permanent protection of over 12,100 acres of habitat and future park land.

For FY11, Congress cut CESCF very substantially, making a 30 percent cut in the FY11 appropriations and another 20 percent cut in the FY12 appropriations. The across-the-board automatic budget cuts in FY13 resulted in additional cuts to the CESCF, bringing the FY13 level to about \$45 million. This is a far greater cut than overall federal or total USFWS funding. The FY14 enacted amount for CESCF totals \$50 million, which is an increase to FY13 levels, but far less than \$85 million in FY10. The FY15 funding levels have not yet been set.

In sharp contrast, there is tremendous demand both in California and across the country for threatened and endangered species grant funding. With the increased utilization of HCPs and enhanced activity in recent years to update and finalize Recovery Plans, the CESCF program is currently receiving requests far greater than the amount available.

Local jurisdictions managing conservation plans in counties across California are working through the California Habitat Conservation Planning Coalition to seek restoration of this funding. These conservation plans include the Yolo Natural Heritage Program, the Solano HCP, the East Contra Costa County HCP/NCCP, the Santa Clara Valley HCP/NCCP, the Coachella Valley Multispecies Conservation Plan, the Western Riverside County Multispecies Conservation Plan and the San Diego Multispecies Conservation Plan.

Item 2: Streamlining Permitting for Critical Infrastructure and Economic Stimulus Projects and Creation of “Green” Jobs.**LEGISLATIVE POSITION:**

Request recognition of Habitat Conversation Plans (HCPs) as a reliable way of streamlining critical infrastructure and economic stimulus project permitting in a manner that is consistent

with federal environmental regulations. HCPs not only facilitate such projects through permit streamlining, but the planning, implementation, management, and monitoring needs associated with regional HCP plans also create many quality “green” jobs.

BACKGROUND:

There has been a dramatic increase in infrastructure projects associated with state and federal infrastructure initiatives and economic stimulus legislation. Regional HCPs are an excellent tool for streamlining the necessary project permitting and environmental mitigation associated with these investments in a manner that will be consistent with federal environmental regulations. Not only do HCPs facilitate and streamline job creating investments, but also as discussed above, the planning, implementation, monitoring, and management needs related to these plans create “green” jobs. Creation of these types of jobs has been noted as a top priority of the current presidential administration.

Item 3: The Use of Local Fee Money to Match Federal Section 6 Grants

LEGISLATIVE POSITION:

Advocate implementation of the revised grant guidelines for the USFWS Section 6 Grant Program so that a significant portion of the Conservancy’s fee funds can be used as match.

BACKGROUND:

In 2008, USFWS staff made clear to the Conservancy staff and others that USFWS interpreted its grant guidelines to prohibit use of mitigation funds as match for Section 6 Grants.

The rationale expressed for this policy is that mitigation funds are compulsory and don’t leverage additional funds. The Conservancy and other concerned parties have argued that this policy was not evident in the grant guidelines and does not seem logical for a grant program designed for HCPs. Section 6 grants do leverage huge amounts of conservation whether or not local fee funds are used as match. The very existence of the Section 6 program has been an incentive to develop regional HCPs, which are far better for conservation than the pre HCP project-by-project land-use permitting process. Without local governments such as those in East Contra Costa County voluntarily agreeing to approve and implement HCPs and require mitigation through their land use authority, the amount and quality of mitigation from these areas would be substantially reduced. The 2008 policy had the potential to derail conservation planning efforts in many parts of California and severely hamper the efforts of existing plans to spend current and future Section 6 grants. The policy also could have a chilling effect on access by HCPs to other federal, state and private grant programs if the USFWS is seen to shy away from consideration of local fee funds as credible source of matching funds for its own HCP grant program.

In 2010, the California Habitat Conservation Planning Coalition made a substantial effort to engage USFWS and resolve the fees as match issue. The Coalition met with Gary Frazer (Assistant Director for Endangered Species of USFWS) and other senior administration officials in Washington in March and Mr. Frazer came to California for a meeting with the Coalition on

this matter in September. The Coalition also sent numerous communications on the matter, commissioned legal analysis and enlisted the support of Senators Boxer and Feinstein. The publication of the FY11 Request for Proposals for Section 6 funding released in November 2010 documents a change in policy on this issue. Beginning in the FY11 grant process, fees collected for non-federal mitigation can be used as match for this grant program. USFWS Field Office staff will be invested with the authority to implement this policy. Based on initial conversations, staff estimates that in East Contra Costa County, approximately half of fees collected will be eligible to be used as match (equivalent to the portion of the HCP that is not mitigation-based). While this would not allow all fees to be used as match as had been hoped, this would free up a significant amount of matching funds over future years. Together with a significant allocation of state bond funds, the immediate crisis over matching funds would be addressed. However, the Conservancy needs to continue to work with USFWS to make sure that anticipated changes in the eligibility of match funds actually occurs.

Item 4: Appropriation of State Funds to Match the Conservancy's Three Approved and Active Federal Section 6 Grants

LEGISLATIVE POSITION:

Request the California Wildlife Conservation Board (WCB) to provide a substantial contribution of approximately \$20 million toward the required non-federal match for the Conservancy's three approved and active Section 6 grants. State funding has already been earmarked in the voter-approved Proposition 84 for Natural Community Conservation Plans.

BACKGROUND:

Section 6 HCP Land Acquisition funds are typically granted to states. The states administer the expenditure of the funds for specific land acquisition projects associated with the HCP named in the grant award. The WCB is the state agency in California responsible for administering the Section 6 Land Acquisition grants. The Section 6 grants for the ECCC HCP/NCCP require a 55% non-federal match (e.g., 45% of the cost may be covered by federal funds, but 55% must be covered with non-federal funds). The Conservancy's eight approved Section 6 grants have a combined value of \$35,494,990. The required non-federal match is \$43,382,766. The HCP includes commitments for state and federal funding contributions and a substantial state contribution at this time would help the Conservancy meet the match requirements of approved Section 6 grants and conserve value habitat.

WCB administers various state funding programs to benefit wildlife, including a funding program specifically for NCCPs. Proposition 84, approved by voters in 2006, included a \$90 million line-item for NCCPs. Only five local government-led NCCPs in the state are actively seeking WCB funds for land acquisition, and the ECCC HCP/NCCP is one of two in northern California. So far, in eight separate grant awards for eight acquisitions, WCB has awarded the Conservancy \$11,543,551. The Conservancy plans to continue work with WCB to seek grants on a project-by-project basis toward a fundraising goal of \$20 million from WCB's Proposition 84 funds, thereby covering about half the non-federal match requirements of the already-

approved Section 6 grants. Other potential state sources of funds that would be pursued include funds administered by the Coastal Conservancy and the Department of Water Resources.

The Delta Legislation package approved in late 2009 bolsters the Conservancy's request. That legislation allocated \$24 million of the \$90 million NCCP line-item in Proposition 84 to NCCP projects of Delta counties. The ECCC HCP/NCCP is the only approved NCCP in the Delta, so this allocation could aid the Conservancy's long-standing request for \$20 million from Proposition 84. During the FY11-FY12 and FY13-FY14 appropriation processes, attempts were made to significantly reduce or redirect this allocation. Conservancy staff worked closely with the County's lobbyist to try to protect the allocation. Whether or not due to these efforts, the allocation was protected. Future efforts to reduce the allocation are anticipated.

Item 5: Habitat Conservation Plans and Natural Community Conservation Plans as a suitable device to fulfill the requirements of SB 375.

LEGISLATIVE POSITION:

Advocate for consideration of HCP/NCCPs as a suitable means for fulfilling the requirements of SB 375.

BACKGROUND:

SB 375 (Steinberg), also known as California's Sustainable Communities and Climate Protection Act is a state law which became effective January 1, 2009. SB 375 calls for the integration of planning for transportation, land use, and housing and also establishes the reduction of greenhouse gas emissions as one of the main goals for regional planning. SB 375 requires the sustainable communities strategy to "gather and consider the best practically available scientific information regarding resource areas and farmland in the region." SB 375 requires regional planning agencies to use this information to prepare Sustainable Communities Strategies and to award regional transportation funds based on these Strategies. Certain projects consistent with the Sustainable Communities Strategies will be exempt from CEQA or qualify for CEQA streamlining. As the Sustainable Conservation Strategy for this region is assembled, the ECCC HCP/NCCP should be viewed as a source of data and a valuable piece of the Strategy puzzle.

Item 6: Habitat Conservation Plans and Natural Community Conservation Plans as a suitable place to spend fees from future climate change legislation.

LEGISLATIVE POSITION:

Advocate for HCP/NCCPs to be viewed as a suitable place to spend funds collected pursuant to future state and federal climate change legislation as HCP/NCCPs effectively mitigate impacts of climate change by providing for ecological adaptation.

BACKGROUND:

One predicted impact of climate change is disruption of ecological systems that have evolved to current climate systems. Wildlife corridors and large regional conservation efforts will help ameliorate the ecological impacts by conserving a range of environmental gradients and enabling natural systems to adapt to these changes.

The Global Warming Solutions Act of 2006 (AB 32) required the Air Resources Board to prepare a Scoping Plan to achieve reductions in greenhouse gas emissions in California. The Scoping Plan, approved by the ARB Board December 2008, provides the outline for actions to reduce California's greenhouse gas emissions and discusses the options for possible uses of allowances and revenues to be generated under the program. One such option is to provide funds toward programs that help the State adapt to climate change.

At the federal level, climate change legislation involving "cap and trade" programs have been under discussion. These programs would collect substantial fees and invest the revenue towards programs to reduce emissions or address the impacts. The National Wildlife Federation is leading a coalition urging that 5% of revenues collected pursuant to such a cap and trade program be invested in natural resource conservation efforts that will enable ecosystems to adapt to climate change. If this were to occur, such revenues could be orders of magnitude larger than the Section 6 program.

Should funds become available to mitigate the impacts of climate change, HCP/NCCPs should be considered as a sound investment since they contain all the vital ingredients necessary to enable ecosystems to adapt to climate change.

Item 7: Habitat Conservation Plans and Natural Community Conservation Plans are critical conservation tools.

LEGISLATIVE POSITION:

Advocate for HCP/NCCPs to be viewed as critical partnerships and flagship programs that should receive increased support and elevated stature at the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW).

BACKGROUND:

Both USFWS and CDFW have been helpful partners in implementing the ECCC HCP/NCCP. However, this support could be improved if HCP/NCCPs were as a high a priority in these organizations as they were in the early 1990s when the regional conservation planning effort got underway. The Conservancy should continue to seek enhanced support of HCPs and NCCPs at the state and federal levels as a key tool for conserving wildlife resources in our state and nation, and one of the only such tools that also supports economic development.

Item 8: Coordination of state and federal wetland regulations and regulatory programs with HCP/NCCPs.

LEGISLATIVE POSITION:

Advocate for coordination of state and federal wetland regulations and regulatory programs with HCP/NCCPs in order to improve the overall efficiency, predictability and effectiveness of natural resource regulation.

BACKGROUND:

Regional HCP/NCCPs conserve a full range of habitats and natural communities, including wetlands and waters. Regional HCP/NCCPs are a more effective means for conservation of wetland, waters and other habitats because conservation priorities are evaluated and implemented on a regional scale that enables the most valuable resources to be targeted and that protects watershed and ecological functions. Coordinating state and federal wetland regulations and regulatory programs with HCP/NCCPs will better protect wetlands and waters and improve the efficiency and predictability of natural resource regulation. The Conservancy will work at the state and federal levels to promote such coordination. The issuance of the Regional General Permit related to the ECCC HCP/NCCP, as well as the associated Biological Opinion, represent major steps toward the necessary coordination. The Conservancy now seeks coordination of the state's wetland regulations and regulatory programs with the ECCC HCP/NCCP, including the 401, Porter Cologne and Streambed Alteration programs.

Item 9: Habitat Conservation Plans and Natural Community Conservation Plans as eligible for funding from the California Water Bond.

LEGISLATIVE POSITION:

Advocate for HCP/NCCPs to be eligible for funding from the watershed protection component of the voter-approved Proposition 1, the Water Bond.

BACKGROUND:

A water bond was originally proposed as part of the 2009 legislative package for the Delta. After a series of postponements the legislature placed a reduced water bond on the November 4, 2014 ballot. The measure was approved.

The voter-approved Water Bond authorizes \$7.12 billion in general obligation bonds for state water supply infrastructure projects, including ecosystem and watershed protection and restoration. Specific spending proposals in the Water Bond include \$1.495 billion for competitive grants for multi-benefit ecosystem and watershed protection and restoration projects. Unlike Proposition 84, there is no earmark for NCCPs included in the Water Bond.

As was the case with voter-approved Proposition 84, HCP/NCCPs should be considered as a sound investment that will ensure that watershed protection dollars are spent effectively and efficiently.

Item 10: Habitat Conservation Plans and Natural Community Conservation Plans as eligible for funding from a potential future California Park Bond.

LEGISLATIVE POSITION:

Advocate for HCP/NCCPs to be specifically recognized in a potential future California Park Bond and allocated significant funding equal to or greater than earlier measures such as Proposition 84 (\$90 million), if such park bond is proposed and approved by the voters.

BACKGROUND:

Senator De León introduced SB 1086, the Safe Neighborhood Parks, Rivers and Coastal Protection Bond Act (Park Bond) of 2014 in the State Legislature in February 2014. Many details of the funding amounts for different components are still undetermined, however the current language of SB 1086 calls out funding for protection, preservation and restoration of lands to address regional conservation projects throughout the state with priority given to projects that implement adopted Natural Community Conservation Plans or endangered species recovery plans. It is currently proposed for the 2016 ballot.

Staff recommends that the Conservancy take a position similar to the Conservancy's position on the recent voter-approved Water Bond. The proposed position on the Park Bond concept is: Advocate for HCP/NCCPs to be specifically recognized in a potential future California Park Bond and allocated significant funding equal to or greater than earlier measures such as Proposition 84 (\$90 million), if such park bond is proposed and approved by the voters. As was the case with voter-approved Proposition 84 and Water Bond, should a future Park Bond be approved by the voters and funds become available, HCP/NCCPs should be considered as a sound investment that will ensure that resource protection and park protection dollars are spent effectively and efficiently.

Resolution No: 2014-03

RESOLUTION OF THE

East Contra Costa County Habitat Conservancy Governing Board

TO SUPPORT

**THE CALIFORNIA HABITAT CONSERVATION PLANNING COALITION TO SEEK
FEDERAL FUNDING FOR LOCAL CONSERVATION PLANNING**

WHEREAS, jurisdictions across California have embarked on Habitat Conservation Plans (HCPs) or Natural Community Conservation Plans (NCCPs) to conserve species and their habitats and aid our economies and job creation through efficient permitting; and

WHEREAS, these HCPs and NCCPs provide regulatory relief by streamlining the permitting process, identifying the costs earlier in the process, and providing time for complying with state and federal environmental regulations; and

WHEREAS, these HCPs and NCCPs offer opportunities for landowners to voluntarily participate in the selling of conservation easements, transfer of development rights or sale of land; and

WHEREAS, these HCPs and NCCPs set a national example of how to integrate conservation of biological resources and the protection of an important agricultural industry with rapid growth within the six county region; and

WHEREAS, these HCPs and NCCPs aid in the recovery of endangered and threatened wildlife species and enhance their habitats; and

WHEREAS, regional, landscape level conservation planning efforts will protect a broad diversity of species and habitats; and

WHEREAS, more than \$1.8 million from various local, state and federal sources was spent to prepare and finalize the East Contra Costa County HCP/NCCP and an additional \$350 million is planned to be spent over the 30-year term for the plan; and

WHEREAS, the East Contra Costa County Habitat Conservancy is a joint exercise of powers authority formed by the Cities of Brentwood, Clayton, Oakley and Pittsburg and Contra Costa County to implement the East Contra Costa County HCP/NCCP; and

WHEREAS, appropriations for the U.S. Fish and Wildlife Service to make grants for Habitat Conservation Plan land acquisition and planning have fallen, land costs have increased, the number of HCPs has increased and the program does not have adequate funding to meet the nation-wide need; and

WHEREAS, the Cooperative Endangered Species Conservation Fund provides grants for preparation of HCPs and also grants for acquisition of land by approved HCPs.

NOW, THEREFORE, BE IT RESOLVED that the Board of the East Contra Costa County Habitat Conservancy does hereby support working together with agencies from counties across California to request that the United States Congress provide \$80 million for the Cooperative Endangered Species Conservation Fund in the fiscal year 2016 Interior, Environment and Related Agencies Appropriations bill anticipated to be passed by Congress in 2015.

Approved by the following vote on: December 8, 2014.

Ayes:

Noes:

Abstain:

Absent:

Attest: _____
Abigail Fateman, Interim Executive Director

CONSERVING NATURAL RESOURCES FACILITATING ECONOMIC DEVELOPMENT



**U.S. Fish and Wildlife Service
Cooperative Endangered Species Conservation Fund
Fiscal Year 2015 Funding Request**

CALIFORNIA HABITAT CONSERVATION PLANNING COALITION

REQUEST

The California Habitat Conservation Planning Coalition requests that Congress fund the Cooperative Endangered Species Conservation Fund (the "Fund") at \$85 million in Fiscal Year 2015. This would partially restore the Fund to its earlier level and help satisfy the urgent need for funding for endangered species conservation efforts, particularly conservation

Habitat Conservation Plans

Regional Habitat Conservation Plans (HCPs) both conserve endangered species and create a means to permit and mitigate the effects of economic development. The comprehensive, scientific, and transparent conservation planning and permitting process made possible by regional HCPs creates conservation opportunities and regulatory streamlining opportunities that are not possible under the more conventional project-by-project approach. Habitat preservation, restoration and stewardship are carried out strategically by local conservation agencies. The California Habitat Planning Coalition includes local municipalities, agencies, conservation organizations and business organizations supporting regional Habitat Conservation Plans.

Supported By

LOCAL AGENCIES

Butte Council of Governments
 City of San Diego
 Coachella Valley Conservation Commission
 Contra Costa County
 County of San Diego
 East Contra Costa County Habitat Conservancy
 Orange County Transportation Authority
 Placer County
 Sacramento County
 San Diego Association of Governments
 San Diego Management and Monitoring Program
 San Joaquin Council of Governments
 Santa Clara County
 Santa Clara Valley Habitat Agency
 Solano County Water Agency
 Western Riverside County Regional Conservation Authority
 Yolo Natural Heritage Program JPA

CONSERVATION ORGANIZATIONS

California Land Conservancy
 California Native Plant Society
 Endangered Habitats League
 Friends of the Desert Mountains
 Friends of Harbors, Beaches and Parks
 Institute for Ecological Health
 Laguna Greenbelt
 Nature Reserve of Orange County
 The Nature Conservancy

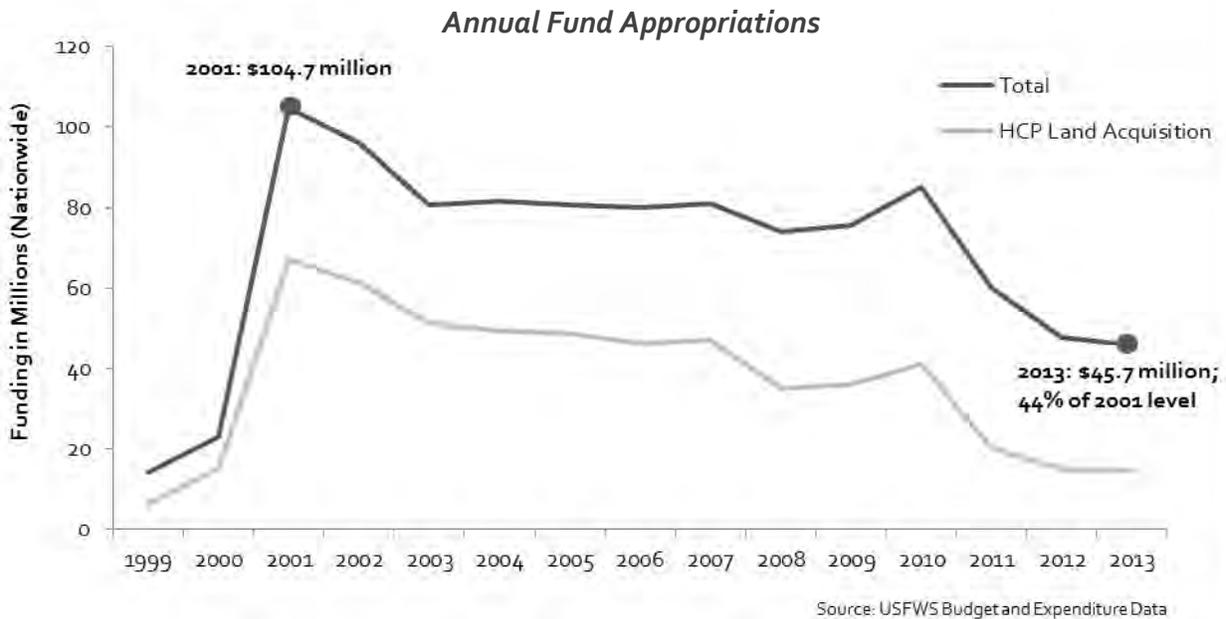
BUSINESSES

Building Industry Association of the Bay Area
 Building Industry Association of San Diego County
 Desert Valley Builders Association
 North State Building Industry Association
 The Sauls Company

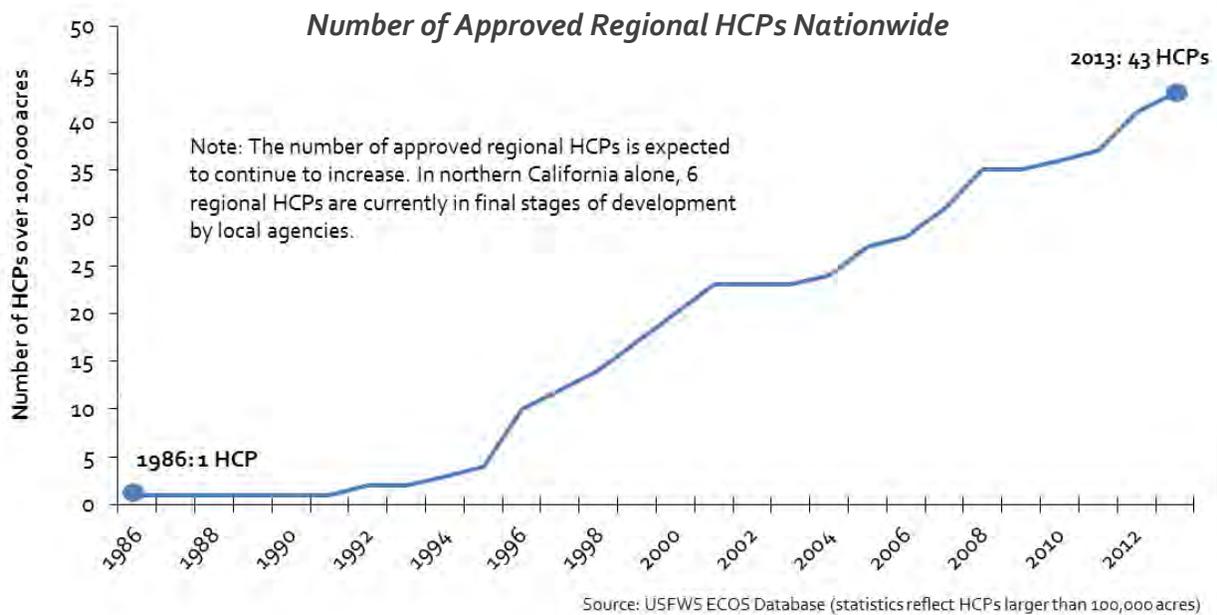


Why the fund allocation needs to increase

Funding levels have decreased dramatically over the past decade



The number of approved HCPs needing funding continues to grow



The Coalition’s proposed partial restoration of the Fund to \$85 million is still much less than the funding provided during the period 2001-2010. Grant requests far exceed the current allocation. The Fund needs to increase substantially in future years to catch up and keep pace with the expected growth in grant requests.

ECONOMIC AND CONSERVATION BENEFITS OF HCPs

Regional HCPs provide State and Federal permits for public infrastructure and private development projects. These permits are issued based on conservation strategies that minimize conflicts between imperiled species and economic development. These regional umbrella permits last 30 to 75 years, transfer authority to local government, and improve certainty of the permit process for project proponents. Regional HCPs in California are expected to permit projects with a cumulative market value in excess of \$1.6 trillion.

Good for Businesses and Jobs

HCPs streamline permitting for development and infrastructure projects. In the short term, this expedites:

- Construction jobs and construction-related activity
- Wages spent in the local economy
- Tax revenue from wages and purchase of building materials

In the long term, streamlined permitting expedites:

- New jobs in new commercial areas
- Increased economic activity overall via the arrival of new homeowners and new businesses
- Ongoing tax revenue from wages, sales taxes and property taxes

The permitting certainty that HCPs provide to developers can be the deciding factor in whether or not a project moves forward—and therefore whether an area sees new jobs, tax revenue and economic growth.

The HCP land acquisition process provides jobs to appraisers, clean-up contractors, realtors, surveyors and title companies.

Through the land acquisition process, HCPs provide a market for willing sellers of land, allowing them to turn assets into capital.

Facilitating Infrastructure Projects

For public infrastructure projects, greater certainty that permits will be issued and faster processing means less cost to taxpayers. New and well-maintained infrastructure is a key component of economic growth. Because regional HCPs are "master" permits, they eliminate the need for the Fish and Wildlife Service to process numerous individual project permits, saving staff time and tax dollars. HCPs also benefit renewable energy projects.

"I view the Santa Clara Valley Habitat Conservation Plan as a breath of fresh air that will bring both timing and cost certainty for environmental mitigation of endangered species into a predictable and welcome process."

*Richard Oliver, President
Dividend Homes, Inc.*



Regional HCPs are a primary mechanism for the conservation of land and species, especially in fast-growing areas. Collectively, regional HCPs in California will conserve more than 1.5 million acres of land. These lands will be restored, enhanced and managed for the benefit of the special status species found in the United States. Conserved land also provides valuable open space to residents and visitors, protecting the natural beauty of these regions and providing numerous recreational opportunities.



A Better Way to Conserve Natural Resources

HCPs purchase, restore and permanently protect large, interconnected and biologically rich blocks of habitat. They also employ the best available science to coordinate conservation actions in a regional manner and maximize benefits to species and ecosystems.

Key Regional HCPs	Covered Species	Acres to Be Conserved	Regional Permit Through*	Est. Value of Covered Activities**
Butte Regional Conservation Plan	41	90,000	2041	Under development
Coachella Valley MSHCP/NCCP	27	745,000	2083	\$300 billion
East Contra Costa County HCP/NCCP	28	30,000	2037	\$12 billion
Natomas/Metro Air Park HCPs	22	9,000	2053	\$18 billion
Placer County Conservation Plan	33	60,000	2061	\$115 billion
San Diego County Multiple Habitat Conservation Open Space Plan NCCP	263	158,000	2061	\$228 billion
San Diego MSCP—County Sub Area Plan	85	98,000	2047	\$118 billion
San Diego North County MSCP/NCCP	63	107,000	2060	\$104 billion
San Joaquin County Multi-species Conservation and Open Space Plan	97	101,000	2051	\$109 billion
Santa Clara Valley HCP/NCCP	19	49,390	2060	\$20 billion
Solano HCP	36	30,000	2040	\$12 billion
South Sacramento HCP	30	58,000	2061	\$45 billion
Western Riverside County MSHCP/NCCP	146	500,000	2079	\$500 billion
Yolo Natural Heritage Program	64	Under development	2041	Under development
TOTAL	-	2,088,117	-	\$1.6 trillion

* For those HCPs in preparation, the term of regional permits is estimated.

** Refers to the market value of the completed project (or, for public infrastructure projects, to the construction cost). Assumes a value of \$1 million per acre for every acre of development that may be covered under the HCP.

Supporting Working Farms and Ranches

Acquisition of agricultural conservation easements create a new source of capital for working farmers, helping to maintain healthy and functioning rural economies while also protecting the habitat value that agricultural land provides.

“We aren’t seeking a handout, an “earmark” or special favors. We are only asking that the program be funded appropriately so we can, again, compete and show the nation that we know how to balance environmental protection with economic development.”

*Richard Kite,
Mayor of Rancho Mirage,
Coachella Valley
Conservation Commission*

RECENT ACCOMPLISHMENTS OF HABITAT CONSERVATION PLANS IN CALIFORNIA



Ferber Ranch

Ferber Ranch (left) is a 399-acre parcel acquired by the Orange County Transportation Authority as mitigation for the Authority's freeway project impacts. The property boasts important habitat for several endangered animals including the coastal cactus wren, California gnatcatcher and Cooper's hawk. This preserve has diverse habitats, including sycamore riparian woodlands, coast live oak riparian forest and arroyo willow riparian forests. This property was highly coveted by the conservation community due to its threat of development and provides an important north-south connection for wildlife movement.

The Nelson Property

The Nelson property consists of approximately 119 acres and is located east of Interstate 15 and west of Lost Road in the City of Wildomar. This property was acquired by the Western Riverside Regional Conservation Authority on January 30, 2014 with a combination of state and federal grant funding. The purchase price was \$270,000, of which \$189,000 was provided in federal grant funds and the match was provided in the form of a \$81,000 state grant. The Nelson property contains important biological resources, including approximately 48 acres of coastal sage scrub habitat. Animal species likely to be present on the property include coastal California gnatcatcher, Bell's sage sparrow, logger-head shrike, Southern California rufous-crowned sparrow and bobcat.

"In the City of San Diego, a Section 6 grant became the critical catalyst that facilitated the development of a Habitat Conservation Plan to protect the remaining vernal pools in the City, 99% of which have been eliminated."

Jim Whalen, J. Whalen Associates Inc.

Roddy Ranch

The 1,885-acre Roddy Ranch is a critical acquisition for conservation in eastern Contra Costa County (right). The property is biologically rich and supports a variety of habitats, and known to support several covered wildlife species including California red-legged frog, California tiger salamander, golden eagle, and Swainson's hawk. The \$14.2 million acquisition will be funded with \$4.8 million of federal Section 6 funds, with the rest from state, local and private foundation sources. The acquisition protects an important piece of the wildlife corridor connecting regional preserves and a state park.



eBART Project

The eBART project (right), permitted through the East Contra Costa County Habitat Conservation Plan, is a 10-mile extension of the BART system. This \$462 million project will generate over 600 construction jobs and 40 to 80 permanent jobs once in operation.



Coachella Area Freeway Interchanges

The environmental coverage provided by the Coachella Valley Multiple Species Habitat Conservation Plan helped make five freeway interchanges "shovel ready", streamlining the completion of this critical infrastructure along the Interstate 10 freeway. Three of the interchange projects, including the Bob Hope Dr. interchange, were completed as of 2012. These projects are estimated to create 2,050 jobs upon completion.



I-15/French Valley Parkway

The new I-15 /French Valley Parkway in Temecula (left) relied heavily on the Western Riverside County MSHCP for coverage under the Endangered Species Act. Without the MSHCP, this project would have likely have taken years to receive species permitting. This \$17 million project aims to reduce congestion and improve safety by relieving the I-15/Winchester Road interchange and minimizing weaving movements on I-15 between Winchester Road and the I-15/I-215 junction. The project broke ground in June 2012 with a completion date in 2014 and is a critical improvement to the transportation system in the southern Riverside County.

"With the help of the Coachella Valley Multiple Species HCP, we have been able to move forward with five freeway interchanges along the I-10 freeway, providing critical infrastructure and bringing much needed jobs to our region."

*John Benoit
Riverside County Board of Supervisors*

Desert Ranch Property

To secure a key wildlife corridor between the San Bernardino Mountains and Joshua Tree National Park, the 750 acre Desert Ranch property (right) was acquired in early 2013 as part of the Coachella Valley HCP/NCCP. In addition to the wildlife corridor, this purchase conserves sand source and sand transport ecosystem processes, and habitat for desert tortoise, burrowing owl, and the tiny, endemic Little San Bernardino Mountains linanthus. Funding sources included \$2.15 million in Section 6 funds leveraged with \$4.03 million in matching funds through the state Wildlife Conservation Board and Coachella Valley Mountains Conservancy. The acquisition was facilitated by a partnership with the non-profit Friends of the Desert Mountains. This was the last in a series of acquisitions in the same area that together have protected over 2,100 acres of desert habitat, much of which had been proposed for a large resort development.





CALIFORNIA HABITAT CONSERVATION PLANNING COALITION

A coalition that includes local agencies, conservation organizations and business organizations supporting regional Habitat Conservation Plans

“Our common vision includes protecting mountains and desert and facilitating development and infrastructure to keep up with growth. The Multiple Species Plan is the method for protecting habitat and jobs.”

*Richard Kite,
Mayor of Rancho Mirage,
Coachella Valley Conservation Commission*

Contact:

John Hopkins, Director
California Habitat Conservation Planning Coalition
409 Jardin Place | Davis, California 95616
P : 530-756-6455 | E : ieh@cal.net

California Habitat Conservation Planning Coalition Voluntary 2015 Membership Contributions

Background

The California Habitat Conservation Planning Coalition (CHCPC) is a statewide coalition of local governments, wildlife agencies, NGOs and business organizations that focuses on improving Habitat Conservation Plans (HCPs) and Natural Community Conservation Plans (NCCPs) in California. The Coalition has four goals.

- Securing adequate federal, state and local funding to assist preparation and implementation of NCCPs and HCPs.
- Coordinating NCCPs and HCPs with other federal, state and regional natural resource protection and permitting programs, including programs for adaptation to climate change.
- Facilitating the development and improving the effectiveness of NCCPs and HCPs.
- Strengthening understanding of and support for NCCPs and HCPs among decision makers, stakeholders and the public.

2014 Program and Use of Voluntary Membership Contributions

Contributions for 2014 paid for staff time provided by the Institute for Ecological Health (IEH), as well as other expenses. Staff provided support for the CHCPC's 2014 campaign to protect funding for Section 6 of the federal Endangered Species Act (the Cooperative Endangered Species Conservation fund) with a particular focus on the HCP land acquisition and HCP planning grants subaccounts. Staff assisted the CHCPC Work Groups and Steering Committee with the completion of projects, organization of business meetings and coordination of the CHCPC annual meeting.

Additional activities included:

- Promoted NCCP/HCPs as an allowed recipient of Cap and Trade auction revenue funds (part of the California Climate Change Program) and as a use of future bond funds. Included drafting a document making the case for NCCPs and HCPs being a valid use of Cap and Trade auction revenue. Staff organized communications with key state legislators and held a Sacramento lobby day, in coordination with the Conservation Strategy Group.
- Promoted the importance and value of NCCPs and HCPs to wildlife agency leadership and sought specific "asks" to make regional conservation plans a higher priority. Activities included a meeting with the California Department of Fish and Wildlife Director and senior managers as well as establishing quarterly meetings for 2015.
- Prepared and distributed an Economic Benefits of HCPs report (outside grant funding paid for the preparation).

- Held a spring annual meeting and field trip in western Riverside County and a December business meeting in Sacramento.
- Produced one edition of our E-newsletter.

2014 Membership Contributions

The coalition received a total of \$39,250 in voluntary membership dues from the Coachella Valley Conservation Commission, County of San Diego, East Contra Costa County Habitat Conservancy, ICF International, Institute for Ecological Health, Pacific Gas and Electric, San Diego Association of Governments (SANDAG), San Joaquin Council of Governments, Santa Clara Valley Habitat Agency, Solano County Water Agency, Yolo Natural Heritage Program JPA and The Nature Conservancy.

Management and Reporting

The Coalition’s Steering Committee oversees spending of the Coalition’s funds. There are quarterly reports.

Voluntary 2015 Membership Contributions

In order to sustain and build the coalition’s work in 2015 we need a source of funding. This provides for some staff time (at \$45 an hour) and expenses, as well as other costs. We obtain base funding for the Coalition through a system of voluntary membership contributions. This income will also improve the Coalition’s ability to obtain grant funding.

There is a tiered schedule of recommended voluntary membership contributions for 2015 to reflect the varying funding capacities of Coalition members:

Approved regional NCCPs	\$ 5,000
Approved HCPs /smaller NCCPs	\$ 1,000
HCP/NCCPs in preparation	\$ 1,000
Businesses	\$ 5,000
Small businesses	\$ 500
Large NGOs	\$ 5,000
Small NGOs	\$ 500

In addition, individuals play a major role through participation in Work Groups and the Steering Committee. IEH’s rate is \$45 an hour. In addition, IEH will provide some pro bono time.

The Institute for Ecological Health (IEH) is the fiscal agent for the coalition. IEH is a 501(c)(3) non-profit corporation, so contributions from taxable entities will be tax deductible as provided by law. There is no overhead, so 100 percent of contributions will fund the Coalition’s program.

Congress of the United States
Washington, DC 20515

April 04, 2014

The Honorable Ken Calvert
Chairman
Subcommittee on Interior,
Environment, and Related Agencies
B-308 Rayburn HOB
Washington, DC 20515

The Honorable Jim Moran
Ranking Member
Subcommittee on Interior,
Environment, and Related Agencies
1016 Longworth HOB
Washington, DC 20515

Dear Chairman Calvert and Ranking Member Moran:

We are writing to emphasize the importance of the Cooperative Endangered Species Conservation Fund (CESCF) in facilitating economic development and job creation in areas where there are endangered and rare species of animals and plants.

The CESCF includes subaccounts that provide vital funding to regional Habitat Conservation Plans (HCPs) through competitive grants. Regional HCPs, which are led by local governments, facilitate urban-suburban infrastructure building, development and job creation through coordinated permitting for endangered species impacts. They are important in areas where there is a large and growing population and also many species of rare animals and plants that often are found nowhere else. Both the HCPs and the CESCF are strongly supported by the involved local governments and by the development and environmental communities.

These HCPs provide a vital win-win solution, balancing the need for economic growth and jobs with conservation of important natural resources. Regional HCPs maintain local control over land use decision-making by delegating enforcement of federal and state wildlife protection laws to local jurisdictions. In addition, large-scale HCPs provide coordinated permitting for projects related to transportation, energy and water delivery projects. They provide vital streamlining and certainty to the development community and local governments.

The CESCF is one of the most successful grant programs within the U.S. Fish and Wildlife Service and one of the most important federal partnerships with local governments. It allows any state with a Fish and Wildlife Service cooperative agreement to apply for grants and participate in a wide array of voluntary projects for conservation of threatened, endangered, candidate, and at-risk species conservation.

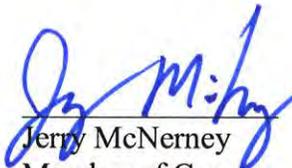
The CESCF program has recognized the importance of providing grants to cities, counties, conservation organizations, and non-federal partners for the conservation and protection of threatened and endangered species. These partners bring their own resources to the table, which are combined with federal funds to achieve both protection

of natural resources and creation of jobs through facilitation of development. This results in significant leveraging of federal dollars.

There are an increasing number of large-scale HCPs in the planning phase around the country and several plans that have been approved recently or are nearing completion. As a result there is increasing demand for the CESCO's HCP planning grants and HCP land acquisition grants. These competitive grants are vital to the success of large-scale HCPs and the ability of local jurisdictions to prepare and implement the plans.

As Congress works to address our nation's fiscal situation, we would appreciate your consideration of the importance of the Cooperative Endangered Species Conservation Fund.

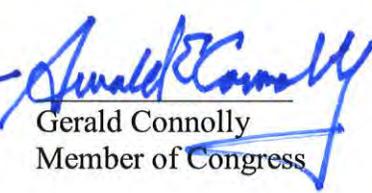
Sincerely,


Jerry McNerney
Member of Congress

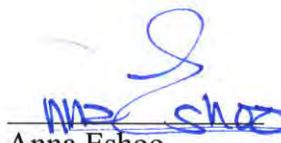

Lois Capps
Member of Congress

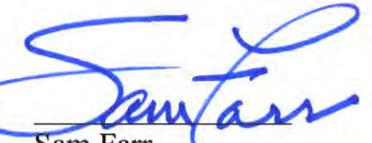

Matt Cartwright
Member of Congress

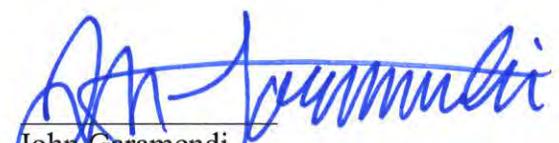

Judy Chu
Member of Congress


Gerald Connolly
Member of Congress


Elizabeth H. Esty
Member of Congress

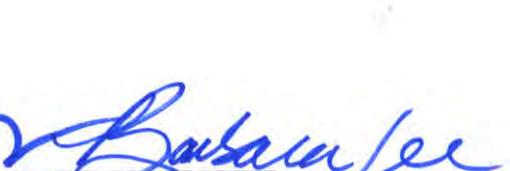

Anna Eshoo
Member of Congress


Sam Farr
Member of Congress

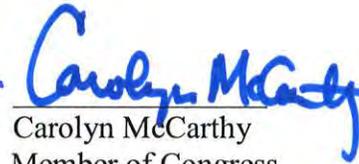

John Garamendi
Member of Congress

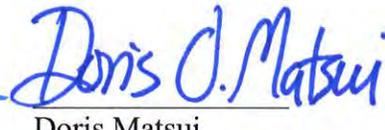

Raul Grijalva
Member of Congress


Alcee Hastings
Member of Congress

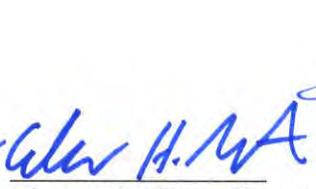

Barbara Lee
Member of Congress


Zoe Lofgren
Member of Congress


Carolyn McCarthy
Member of Congress

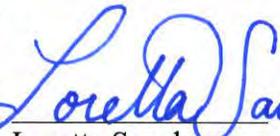

Doris Matsui
Member of Congress

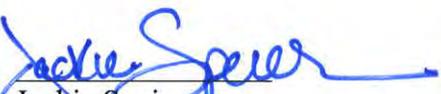

George Miller
Member of Congress


Eleanor Holmes Norton
Member of Congress

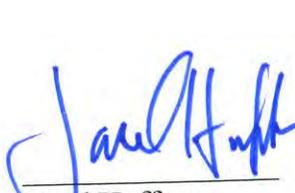

Scott Peters
Member of Congress

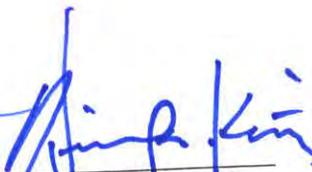

Charles B. Rangel
Member of Congress


Loretta Sanchez
Member of Congress


Jackie Speier
Member of Congress


Mark Takano
Member of Congress


Jared Huffman
Member of Congress


William R. Keating
Member of Congress

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 8, 2014
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: 2015 Budget and Finances

RECOMMENDATION

Consider the following items related to Conservancy finances:

- a) **APPROVE** the 2015 Conservancy Budget.
- b) **AUTHORIZE** staff to execute annual contracts for on-going consulting services with:
 - **ICF Jones and Stokes:** not to exceed \$115,000 for the term from January 1, 2015 to December 31, 2015;
 - **H.T. Harvey and Associates:** not to exceed \$35,000 for the term from January 1, 2015 to December 31, 2015;
 - **Monk and Associates:** not to exceed \$40,000 for the term from January 1, 2015 to December 31, 2015.
 - **Nomad Ecology:** not to exceed \$120,000 for the term from January 1, 2015 to December 31, 2015.
 - **Restoration Resources:** not to exceed \$50,000 for the term from January 1, 2015 to December 31, 2015.
 - **Thunder Mountain Enterprises** not to exceed \$50,000 for the term from January 1, 2015 to December 31, 2015.
- c) **AUTHORIZE** staff to execute a contract for legal services with:
 - **Resources Law Group:** not to exceed \$90,000 for a term from January 1, 2015 through December 31, 2015.
- d) **AUTHORIZE** staff to amend an existing contract for legal services with
 - **Abbott and Kindermann:** extend the term one year to December 31, 2015.

CONTINUED ON ATTACHMENT: Yes
 ACTION OF BOARD ON: December 8, 2014 APPROVED AS RECOMMENDED: _____
 OTHER: _____

VOTE OF BOARD MEMBERS

___ UNANIMOUS
 ___ AYES: _____
 ___ NOES: _____
 ___ ABSENT: _____
 ___ ABSTAIN: _____

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.

ATTESTED _____
John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

BY: _____, DEPUTY

DISCUSSION

Item (a): Please find attached a proposed 2015 Conservancy Budget (Table I) and supporting tables prepared by staff for discussion by the Board.

Table I: The 2015 Conservancy Budget, Table I, provides recommended expenditures by program area from the various funding sources controlled by the Conservancy or related to the HCP, including the Development Fee Account, the Wetland Mitigation Fee Account, and contributions to recovery from Participating Special Entities and the various grant funds awarded (or proposed) to support implementation tasks associated with the HCP.

The California Wildlife Foundation holds an account set up by the wildlife agencies to help match the Conservancy's efforts to implement the HCP. This account contains pre-plan mitigation payments collected by the wildlife agencies as well as mitigation payments from activities not covered by the HCP. The current balance is approximately \$3.5 million. The wildlife agencies control disbursements from this account. The 2015 Budget does not preclude the Conservancy from requesting grants of these funds. However, given that fee revenue is expected to increase due to economic conditions and varies significantly year to year, staff recommends requesting little or no funding from this account, leaving funding available to be requested later should funding critical funding gaps emerge.

Tables I-1 through I-9: Tables I-1 through I-9 present detailed cost estimates by program area (e.g., Program Administration and Permitting Program, Land Acquisition, etc.). Detailed cost estimates are excerpted from the HCP, as well as from the 2013 Fee Audit, as two points of comparison with the detailed estimates provided for the proposed 2015 Budget (see additional background information below on comparison with HCP and Fee Audit estimates).

The 2015 estimates that form the basis for the 2015 Budget are shaded yellow. Prior Conservancy Budget amounts are also provided for comparison purposes. Tables I-1(a) and I-1(b) summarize County staff costs, which are distributed among the various program areas. Tables I-2 through I-9 provide the basis for the 2015 Conservancy Budget (Table I) for each program area. The purpose of including these detailed tables is to provide more information on what these program areas encompass and how the estimates were derived.

Background on HCP and Fee Audit cost estimates presented for comparison: As was the case in developing previous Budgets, staff felt the cost estimate information presented in Appendix G of the HCP would provide a useful basis of comparison for the 2015 Budget. Cost estimate information for years 6 to 10 of implementation was compiled from Exhibit G for the Initial Urban Development Area Scenario. The Year 6 to 10 cost estimates were divided by five to calculate the average annual costs during this five-year period.

Similar to last year, for the 2015 Budget, we have also included cost estimates from the East Contra Costa County HCP/NCCP Mitigation Fee Audit and Nexus Study, completed March 2013. The Fee Audit cost model provides an update to the one in the HCP, and provides more current estimates. Cost estimate information for years 6 to 10 of implementation was compiled from Appendix D: Initial Cost Model Update for the Initial Urban Development Area Scenario. As with HCP/NCCP estimates, the Year 6 to 10 cost estimates were divided by five to calculate the average annual costs during this five-year period.

This estimated average annual cost from the HCP and the Fee Audit is useful information but there are some things to keep in mind when making comparisons:

- Since the costs of some tasks may change significantly during the five year period (e.g. habitat restoration/creation and land management), the annual average of the five-year cost estimate may over or under-estimate needs in certain years.
- The estimates from the HCP are in 2005 and 2006 dollars. The Consumer Price Index has increased about 20% since 2005/2006.
- The Conservancy has adopted an approach to implementing the HCP that reflects funding opportunities and constraints. For example, land acquisition grants have been relatively plentiful while fee revenue has been relatively scarce, and the Budget has reflected these realities. Higher than average (relative to the 30-year term of the HCP) land acquisition costs early in the life of the HCP will result in lower than average land acquisition costs in later years. The HCP and Fee Audit estimates do not reflect funding variability and assume a steady level of effort during the Plan term.

Table II: Table II presents updated information on approved grants. The total amount of grant funding that has been approved for award to the Conservancy is \$57,467,914. Of this amount, \$49,639,419 has been spent. This total includes approximately \$418,612 that has been spent by the Conservancy but not yet reimbursed by grant funders (\$388,612 from the IRWMP grant for the Hess Creek Restoration Project and \$30,000 for the Baseline Resource Inventory of Acquisitions from the California Department of Fish and Wildlife Local Assistance Grant). Awarded grant funds that remain unspent total \$7,803,595, but of this amount, approximately \$5.5 million is encumbered or proposed for specific projects. Grant funding totals do not reflect funding provided by East Bay Regional Park District (EBRPD), either through its own funds or grants received by EBRPD. EBRPD has contributed more than \$15 million of its funds or its grant funds toward joint land acquisition projects alone. Approved grant totals include only those Proposition 84 funds that have actually been approved by the California Wildlife Conservation Board (WCB) to date (\$11,543,551). The Conservancy has adopted a medium-term goal through its Legislative Platform of securing \$20 million from Proposition 84 (e.g. \$8 – 9 million more than has been received to date).

Table III: Table III is an update of the Budget Status Table presented in June 2014 to the Board. It compares the approved 2014 Budget with actual expenditures that had cleared the accounting process by early June, although work performed in May and June are generally not reflected. Figures presented in June represent activity for about one-third of the fiscal year. Table III indicates that Conservancy expenses for 2014 will be within the approved Budget.

Table IV: This table pertains to revenues from wind power, communications and residential leases from properties acquired by EBRPD with financial support from the Conservancy and its grant funding partners. These lease revenues belong to EBRPD but must be spent on specified tasks within the HCP Preserve System. The grant agreements describe eligible expenditures to include day-to-day management of the land, a reserve fund for long-term management and additional land acquisition for the Preserve System. The funding agreements between EBRPD and the Conservancy provide that the two agencies cooperatively develop a budget for EBRPD expenditure of these funds. Table IV is intended to accomplish that need. It should be noted that these lease revenue funds are not Conservancy funds and are not reflected in Tables I – III.

These funds will help accomplish the goals of the HCP, but are matching funds similar to EBRPD contributions to land acquisition and preserve management.

Table IV documents actual and projected revenues and expenditures of funds generated by these leases. This table was developed jointly with EBRPD. Total actual and projected revenues from 2010 (when the first such lease revenues were collected) through 2015 is \$2,369,567. The year-to-date revenue for 2014 (as of November 20, 2014) is \$425,859. Expenditures fall into three categories and are proposed to be allocated generally as follows: preserve management (includes ranger staff managing the preserve, outside services such as weed abatement, and supplies) (60%), reserve fund for long-term preserve management (25%) and future acquisition of additional HCP Preserve System lands (15%). For 2015, \$130,000 is proposed to be allocated to a reserve fund for long-term preserve management and \$78,000 is proposed to be allocated to future acquisition of additional HCP/NCCP preserves.

The lease revenues fill a critical cash flow need. With land acquisition well ahead of pace, but mitigation fee revenues far below the projected average annual pace, the Conservancy lacks fee funding to pay significant preserve management costs. Lease revenues enable EBRPD to pay for a portion of the added cost of managing approximately 12,100 new acres. The lease revenue funding proposed for current management is small relative to EBRPD management costs for their regional parks in the HCP area. Management of these parks costs about \$120 per acre per year (Chapter 9 of the HCP). The lease revenue provides about \$40 per acre per year for management of the current HCP Preserve System lands.

Considerations in developing the 2015 Budget: The proposed 2015 Budget has been adapted from the 2014 Budget approved last year. Noteworthy aspects of the allocations proposed for 2015 include the following:

- Recommended expenditures for Land Acquisition are relatively high, but have decreased from last year. A large acquisition closed last year (Roddy Ranch) which accounted for more than \$10 million of the 2014 land acquisition budget, and market conditions continue to be favorable for land acquisition. We currently have one acquisition approved (Viera/Perley Property) that is set to close by mid-year next year, and a few more that will be proposed for consideration early next year. This category is very heavily funded by grants, the vast majority of which have deadlines for expending funds that should not be missed. As a result of these factors, the recommendation for this category remains relatively high. However, it should be noted that, like last year, the recommended expenditures may exceed what we are capable of spending this year and will depend on willing sellers, the timing of acquisitions, the ability to secure match and the pace of grant procurement. Staff has provided an ambitious but reasonable estimate of what it may be possible to spend this year given these factors, but it would be helpful to the Conservancy's long-term goals if grant funding expenditures allowed us to exceed the budget amount for this category.
- Planning and Design for Management, Restoration, and Recreation is up 3% while Restoration and Creation is down 63%. 2014 was a substantial year for the Restoration and Creation category with the construction of a large restoration project, the Hess Creek Channel Restoration Project. Conditions will be reduced next year but Planning and Design is recommended for a minor increase to prepare for more construction in 2016.

- Program Administration has decreased 3% from 2014. However, 2014 was an increase of 33% from 2013. This was due to the need to defend the City of Brentwood in litigation filed regarding HCP fees. Work on the lawsuit will continue in 2015, although at a lower amount than 2014.
- Overall, 2015 Budget allocations have decreased 46% from the 2014 Budget. The decrease to the land acquisition and habitat restoration/creation budgets account for most of the decrease to the overall 2015 Budget. Roddy Ranch was a large acquisition for 2014 and staff does not anticipate a large acquisition comparable to Roddy Ranch; however, staff anticipates numerous smaller land acquisition properties. The Conservancy also completed the Hess Creek Channel Restoration Project, which accounts for the large habitat restoration/creation budget for 2014. In 2015, the Conservancy plans to initiate the planning and design for future restoration projects.

Recommendation on 2015 Budget: Staff recommends that the Governing Board discuss the Proposed Budget, determine any modifications or clarifications, and approve the Budget with any modifications. Consistent with the expenditure policies approved in October 2007, the total amounts for each program area in the Budget would be figures that could not be exceeded without amendment of the Budget. The detailed estimates provided in Tables I-1 through I-9 provide the basis for the program area totals but the subcategories presented are estimates not binding totals. However, one exception is that the total estimated maximum cost of all County staff support plus the estimated maximum cost of the Contract Planner working part-time for the Conservancy, which is \$769,508 (\$715,928 plus \$53,580), should also be designated by the Board as an expenditure limit that may not be exceeded without further approval of a revised amount. This recommendation is offered to be consistent with the Joint Exercise of Powers Agreement forming the Conservancy which provides that the Governing Board shall set an annual limit on the amount of County staff costs that may be recovered from the Conservancy.

Item (b):

The Conservancy will be completing some ongoing tasks in 2015 as well embarking on several new tasks, and the prior consultant recruitment is providing and will continue to provide an excellent range of choices for future work. The Conservancy has started to phase in firms that responded to the September 2013 Conservancy request for proposals (RFP) for “On-Call Conservation Planning Services and Preserve Establishment and Management Services.” These firms are starting with contracts under \$25,000 and do not require Board approval. We anticipate we may recommend larger contracts with these “new” firms in 2015 as we grow their workload.

Firms that have been working with the Conservancy and received a positive evaluation following the recruitment process are recommended to continue working with the Conservancy. Staff recommends the actions set forth below with respect to firms providing on-going consulting services to the Conservancy. All contracts are consistent with the recommended 2015 Budget.

ICF Jones and Stokes:

The recommendation is to execute a contract for \$115,000 for a one year term from January 1, 2015 through December 31, 2015. Please find an overview below:

Contract amount: \$115,000

Primary tasks: Preparation of annual report based on established template and procedures, completion of first preserve management plan and associated monitoring program plan / exotic pest control plan; and on-going support to the effort to secure certification by the water boards of the Regional General Permit issued by the U.S. Army Corps of Engineers for the HCP/NCCP.

Funding sources: Conservancy funds

ICF Jones and Stokes has provided a range of services to the Conservancy since 2007 and a continuation of that support is vital in 2015. Staff worked with ICF to develop cost projections for key tasks that will continue in 2015 and used this information as background in crafting the Proposed 2015 Conservancy Budget. The recommended contract limit, is greatly reduced from 2014. This is primarily related to the removal of a contract planner position. Key tasks for ICF Jones and Stokes in 2015 include:

- Completion of the Vasco Hills- Byron Vernal Pools Preserve Management Plan as required by the HCP; a first draft of the Plan was completed in late 2012 and a final plan will be approved in 2015. [Approximately \$35,000 for this task]
- Completion of the Vasco Hills- Byron Vernal Pools Preserve Monitoring Program Plan/Exotic Pest Control Plan, as required by the HCP/NCCP [Approximately \$20,000 for this task]
- Continued assistance with completing the regional wetlands permitting programs initiated during development of the HCP; [Approximately \$20,000 for this task]
- Assistance with preparation of the 2014 Annual Report and additional design on databases required to track the Conservancy's compliance with the Plan; [Approximately \$25,000 for this task]
- Provision of biological expertise to assist with answering technical questions, support the Conservancy with pre-acquisition assessments and assist with day to day operation of the Plan [Approximately \$15,000 for this task]

The proposed contract is consistent with the Proposed 2015 Conservancy Budget.

H.T. Harvey & Associates:

The recommendation is to execute a contract for \$35,000 for the term January 1, 2015 through December 31, 2015. Please find an overview below:

Contract Amount: \$35,000

Primary tasks: Support for of the Hess Creek and Wetland Restoration Project vegetation landscape plan finalization/installation, restoration opportunities analysis, CEQA species analysis, on-call biological work.

Funding sources: Conservancy funds

H.T. Harvey and Associates provided a range of services to the Conservancy in 2014. Their primary task was the completion of the design and supervision of the construction of the Hess Creek Channel Restoration Project. Staff worked with H.T. Harvey and Associates to develop cost projections for key on-going tasks that will continue in 2015 and used this information as background in crafting the Proposed 2015 Conservancy Budget. It is possible that pending the outcome of the restoration opportunities analysis, Conservancy staff may return to the Board to

increase this contract amount to allow H.T. Harvey and Associates initiate restoration planning/design.

Key tasks for H.T. Harvey and Associates include:

- Finalization and oversight of vegetation landscape element of the Hess Creek Wetland Restoration project [Approximately \$5,000 for this task]
- Finalization of comprehensive report analyzing all special status species with a potential to occur in the area (a list many times larger than the 28 covered species) with respect to the conservation measures of the HCP. The report is intended as a document the Conservancy and other customers of the Plan can use to streamline their CEQA measures. With this report and the HCP EIR, project proponents would have effective base upon which biological impact sections could tiered. [Approximately \$5,000 for this task]
- Conservancy properties restoration assessment, development of opportunities and constraints analysis, development of concept designs [Approximately \$12,000 for this task]
- Hess Creek Biological As-built [Approximately \$8,000 for this task]
- On-call biological services including advising on adaptive management of restoration projects [Approximately \$5,000 for this task]

The proposed contract is consistent with the Conservancy's proposed 2015 Budget.

Monk and Associates:

The recommendation is to authorize staff to execute a contract with Monk and Associates for \$40,000 for the term January 1, 2015 through December 31, 2015. Please find an overview below:

Contract amount: \$40,000

Primary tasks: Continued monitoring of Souza I, Upper Hess, Souza II Corral, and Vaquero Farms South wetland projects. Provide restoration opportunities analysis and on-call biological services related to unanticipated botanical and wildlife tasks that may be encountered on properties or projects.

Funding sources: Conservancy funds

Monk and Associates designed the Souza I pond restoration/creation project (2008) and has been providing the required monitoring for that project as well as the Upper Hess project. The Souza I project has met success criteria so the monitoring efforts of that project will be reduced. Monk and Associates designed and oversaw the construction/restoration in late 2012 of three small vernal pools on Souza II and Vaquero Farms South and will continue to manage the monitoring responsibilities associated with these three pools.

- Monitoring hydrology and vegetation Souza I, Upper Hess, Souza II Corral and Vaquero Farms South wetland restoration projects [Approximately \$22,000 for this task]
- Conservancy properties restoration assessment, [Approximately \$5,000]
- Crustacean survey/monitoring [Approximately \$8,000]
- On-call biological tasks [Approximately \$5,000]

The proposed contract is consistent with the Conservancy's proposed 2015 budget.

Nomad Ecology:

The recommendation is to authorize staff to execute a contract with Nomad Ecology for \$120,000 for the term January 1, 2015 through December 31, 2015. The proposed contract with Nomad maintains contiguity on critical administrative, implementation and monitoring tasks.

Contract amount: \$120,000

Primary tasks: Monitoring of Souza 2, Lentzner Spring, Hess Creek restoration projects; comprehensive wetland and rare plant survey on new acquisitions, contribution of botanical expertise to development of management, monitoring and restoration plans, and on-call biological services related to unanticipated botanical and wildlife tasks that may be encountered on properties or projects; provision of a consulting planner to the Conservancy (two days a week for two months, 1 day a week for six months) to assist with the management of the permitting program, development and management of comprehensive tracking databases, and general program support.

Funding sources: Conservancy funds, administrative charges collected from applicants and Local Assistance Grant from CA Department of Fish and Wildlife.

The recommended 2015 contract is similar to amount to the 2014 contract. The contract continues the preserve inventory tasks that Nomad Ecology has performed for the past four years as well as the monitoring of the Souza II and Lentzner Spring restoration projects. This contract will initiate monitoring of the recently constructed Hess Creek Restoration project. In mid-2014, Nomad Ecology started providing a part-time planner to assist with staff transitions and the permitting program. This contract will continue that task for two days a week through February and reducing to one day a weeks through August. Additional funds would be available in the proposed contract in the contract for on-call biological services and review of restoration and management plans. Key tasks for Nomad Ecology include:

- Monitoring hydrology and vegetation on Souza II, Lentzner Spring, Hess Creek wetland project [Approximately \$24,000 for this task]
- Continue preserve-wide wetland inventory (necessary to document the location and extent of wetland preservation that has occurred on acquired properties; this information will also help with future wetland restoration planning) [Approximately \$15,000 for this task]
- Continue botanical surveys required by the HCP/NCCP to document covered and no-take plant populations on acquired lands [Approximately \$31,000 for this task]
- Noxious weed mapping on preserve properties targeted for restoration activities [Approximately \$14,000 for this task]
- Provision of contract planner to assist with permitting program implementation [Approximately \$28,000 for this task]
- On-call biological services [Approximately \$8,000 for this task]

The proposed contract is consistent with the Conservancy's proposed 2015 budget.

Restoration Resources, Inc.: The recommendation is to authorize staff to execute a contract with Restoration Resources, Inc. for \$50,000 for on-call maintenance tasks for the term January 1, 2015 through December 31, 2015. Please find an overview of tasks below:

Primary tasks: Maintenance and Adaptive Management work on Souza 1, Souza 2, Upper Hess Creek Watershed, and Hess Creek Restoration projects.

Funding sources: Conservancy funds.

The Conservancy has now completed construction on eight wetland restoration/creation projects: Lentzner Springs (2008), Vasco Caves - Souza I Pond (2008), Souza II Wetlands (2009), Irish Canyon (2010), Upper Hess (2011), Souza II corral (2012) and Vaquero Farms South (2012), Hess Creek (2014). These projects need varying degrees of maintenance over the coming years. Anticipated maintenance activities include weeding, replacing plants, repairing silt fences and other best management practices that prevent silt from entering waterways. In addition, contractor support is needed to perform management and enhancement actions required by the Plan, such as constructing grazing exclosures to protect resources, exotic plant control, etc.

Restoration Resources offers a competitive fee schedule, are able to provide a broad array of services on a timely basis, are responsive to Conservancy staff requests and have the expertise to provide the maintenance needed.

Tasks included in this contract include:

- Vegetation management and maintenance: installation, replacement seeding/planting as needed on restoration projects.
- Invasive plant control (mechanical and chemical)
- Adaptive Management activities on restoration projects
- Installation and maintenance of erosion control measures
- Fence/gate installation and maintenance
- On-call biological maintenance and property management tasks

The proposed contract is consistent with the Conservancy's proposed 2015 Budget.

Thunder Mountain Enterprises: The recommendation is to authorize staff to execute a \$50,000 contract with Thunder Mountain Enterprises for on-call maintenance tasks to extend the term through December 31, 2015. Please find an overview below:

Primary tasks: Maintenance and Adaptive Management work Lentzner Spring, Souza II corral vernal pool, Vaquero Farms South Vernal pools restoration sites and future restoration and adaptive management projects

Funding sources: Conservancy funds

Thunder Mountain is the contractor that built and provided the first four years of maintenance on the Lentzner Spring Restoration Project. The staff of Thunder Mountain is familiar with the site, the wetland features, and plants that have been installed. Thunder Mountain has also demonstrated particular strength for designing and implementing erosion control best management practices which are often a key need at stream and wetland restoration sites. Thunder Mountain has provided adaptive management services on the Souza II property, at the Upper Hess restoration project as well as the Vaquero Farms South vernal pools. They offer a competitive fee schedule, are extremely responsive to Conservancy staff requests and have the expertise to provide the maintenance needed.

Tasks included in this contract include:

- Plant maintenance: weeding and replacement seeding/planting as needed
- Invasive plant control
- Adaptive Management activities on Souza II, Hess and future restoration projects
- Installation and maintenance of erosion control measures
- Fence/gate installation and maintenance
- On-call biological maintenance and property management tasks

The proposed contract is consistent with the Conservancy's proposed 2015 budget.

Item (c):

Resources Law Group:

The recommendation is to execute a contract for legal services with Resources Law Group for a one year term through December 31, 2015. Please find an overview below:

Contract amount: \$90,000

Primary tasks: General legal support including support to the Governing Board and preparation and review of various agreements, support to effort to coordinate wetlands permitting with HCP including developing in Lieu Fee Instrument, assistance with extending coverage to Participating Special Entities, assistance with expenditure of WCB funding, support to Legislative Program and support to land acquisition program.

Funding Source: Conservancy funds, administrative charges collected from applicants.

Resources Law Group assisted with developing all of the agreements related to the HCP/NCCP and have also assisted with a large number of initial implementation tasks since approval of the HCP. Substantial future and on-going work remains. Key tasks include:

- General legal support to the operations of the Conservancy, including advising the Governing Board and staff, legal support to Conservancy meetings, reviewing application of agreement templates, legal assistance to staff with the take authorization program (including reviewing and finalizing agreements with Participating Special Entities), development of agreements with EBRPD for management funding and legal support to the Conservancy's legislative program. [approximately \$35,000 for this task]
- Assisting with development of regional wetlands permitting programs coordinated with the HCP/NCCP, including negotiating and continued drafting of an agreement with the wetlands regulatory agencies to coordinate wetlands permitting with the HCP (In Lieu fee Instrument). [approximately \$45,000 for this task]
- Assisting with the land acquisition programs, including assisting staff with applying agreement templates, specialized due diligence on land acquisition prospects, assistance with interacting with state and federal granting agencies. [approximately \$10,000 for this task]

The contract amount recognizes that many of the foundational documents associated with the Conservancy have been completed but that a big effort is expected this year as the Conservancy continues work on regional wetlands permitting with the State Water Resources Control Board. This recommended contract amount is consistent with the recommended 2015 Conservancy Budget.

Item d) Abbott & Kindermann:

The recommendation is to execute a contract amendment with Abbott & Kindermann to extend the term one year to December 31, 2015.

Existing contract amount: \$275,000 (no change recommended at this time)

Primary tasks: Litigation support

Funding Source: Contributions to recovery from Participating Special Entities

Abbott & Kindermann have expertise in local government fees and exactions and have been advising and assisting the Conservancy on legal issues related to the HCP/NCCP fees and the periodic fee audit. Continued service is needed at this time as a result of litigation filed against the City of Brentwood related to HCP/NCCP fees. The Conservancy and the City of Brentwood have signed the Defense and Indemnification Agreement authorized by the Board in August. Pursuant to that agreement, the Conservancy will defend the City of Brentwood and other signatories in the event of certain legal challenges such as the litigation filed against the City of Brentwood, which also names the Conservancy and Conservancy Governing Board as a real parties in interest (Discovery Builders, Inc. v. City of Brentwood, California; City Council of the City of Brentwood, et al.; Contra Costa County Superior Court, Case No. N13-1781). The court has delayed the litigation schedule at the mutual request of the parties. Staff is recommending that the contract term be extended by one year. It may be necessary to adjust this contract limit (and the Program Administration Budget) in 2015 as work proceeds.

Attachments:

- Proposed 2015 Conservancy Budget and supporting tables

Table I: Proposed 2015 Conservancy Budget: Recommended Expenditures and Comparison to Budgets From Previous Years

Cost Category	Proposed 2015 Expenditures						Approved 2014 Budget		Approved 2013 Budget		Approved 2012 Budget		Approved 2011 Budget		Approved 2010 Budget	
	Development Fee Account	Wetland Mitigation Fee Account	Grant Funding & Contributions to Recovery	TOTAL (2015)	% of Total	% Change from 2014	TOTAL (2014)	% of Total	TOTAL (2013)	% of Total	TOTAL (2012)	% of Total	TOTAL (2011)	% of Total	TOTAL (2010)	% of Total
Program Administration and Permitting Program	\$663,992	\$ -	\$ 125,000	\$ 788,992	6%	-3%	\$ 813,923	3%	\$ 609,840	4%	\$ 609,596	5%	\$ 606,981	4%	\$ 514,189	3%
Land Acquisition	\$ 150,000	\$ -	\$ 11,296,312	\$ 11,446,312	82%	-49%	\$ 22,434,765	88%	\$ 14,029,084	88%	\$ 11,268,217	85%	\$ 14,025,099	84%	\$ 14,046,303	89%
Planning and Design (Management, Restoration, and Recreation)	\$ 127,364	\$ -	\$ 275,000	\$402,364	3%	3%	\$ 391,937	2%	\$ 310,136	2%	\$ 271,029	2%	\$ 303,259	2%	\$ 232,139	1%
Habitat Restoration/Creation	\$ -	\$206,352	\$ 150,000	\$ 356,352	3%	-63%	\$ 963,719	4%	\$ 256,609	2%	\$ 331,069	3%	\$ 843,259	5%	\$ 331,920	2%
Environmental Compliance	\$ 84,286	\$ 30,000	\$ 40,000	\$ 154,286	1%	-5%	\$ 163,249	1%	\$ 171,086	1%	\$ 155,921	1%	\$ 165,770	1%	\$ 151,303	1%
HCP/NCCP Preserve Management and Maintenance	\$ 193,727	\$ -	\$ 180,000	\$ 373,727	3%	-3%	\$ 383,630	1%	\$ 219,318	1%	\$ 209,202	2%	\$ 264,257	2%	\$ 298,151	2%
Monitoring, Research, and Adaptive Management	\$ 137,727	\$ 40,000	\$ 90,000	\$ 267,727	2%	-11%	\$ 300,384	1%	\$ 259,756	2%	\$ 275,202	2%	\$ 263,817	2%	\$ 169,565	1%
Remedial Measures	\$ 6,000	\$ -	\$ -	\$ 6,000	0%	0%	\$ 6,000	0%	\$ 6,000	0%	\$ 6,000	0%	\$ 6,000	0%	\$ 6,000	0%
Contingency Fund (5% of non-land acquisition costs)	\$ 117,172	\$ -	\$ -	\$ 117,172	1%	-22%	\$ 150,842	1%	\$ 91,337	1%	\$ 92,601	1%	\$ 122,367	1%	\$ 84,863	1%
TOTAL 2014 EXPENDITURES	\$ 1,480,267	\$ 276,352	\$ 12,156,312	\$ 13,912,931	100%	-46%	\$ 25,608,449	100%	\$ 15,953,166	100%	\$ 13,218,838	100%	\$ 16,600,808	100%	\$ 15,834,433	100%

Personnel Summary: Comparison of HCP Cost Projections With Conservancy's Approach to Staffing¹

Table I-1a

Personnel Cost estimates from the HCP

	Total cost per FTE per Year (from HCP)	Estimated FTEs From HCP Years 6-10	1/5 of Five-Year HCP Estimate	How These Functions Are/Will Be Performed in the Conservancy
Administrative Personnel				
Executive Director	\$134,640	1	\$134,640	County Principal Planner
IT-Database/GIS Manager	\$87,516	0.5	\$43,758	County GIS staff, IT staff, and assistant planners
Budget Analyst	\$74,052	0.5	\$37,026	County Principal Planner, Assistant Planner, and County Accountant
Acquisition Specialist	\$100,980	1	\$100,980	County Principal Planner and Assistant Planner; outsourced to EBRPD/others
Grant Specialist / Conservation Planner	\$94,248	1	\$94,248	County Principal Planner, assistant planners, and contract planner
Admin - Secretary	\$60,588	0.5	\$30,294	County secretaries
<i>Total administrative personnel</i>		4.5	\$440,946	
Restoration Planning, Design, and Implementation and Monitoring Personnel²				
Senior Specialist	\$107,712	1	\$107,712	Outsourced to consultants
Project Manager	\$99,054	2	\$198,108	County Principal Planner and consultants
Technical Support	\$67,320	2	\$134,640	Outsourced to consultants
<i>Total restoration personnel</i>		5	\$440,460	
Preserve Management and Maintenance Personnel				
Preserve Manager	\$100,980	1	\$100,980	Outsourced to Conservancy land partners
Laborer	\$53,856	3	\$161,568	Outsourced to Conservancy land partners
Admin - Secretary	\$60,588	0.5	\$30,294	Outsourced to Conservancy land partners
<i>Total Management and Maintenance Personnel</i>		4.5	\$292,842	
TOTAL PERSONNEL (FROM HCP)		14	\$1,174,248	

County Staff Cost Estimates for the 2015 Conservancy Budget

	Projected Average Billing Rate					Estimated FTE					Estimated Annual Cost				
	2015	2014	2013	2012	2011	2015	2014	2013	2012	2011	2015	2014	2013	2012	2011
Deputy Director	-	\$ 168	-	-	-	-	0.5	-	-	-	-	\$ 157,544	-	-	-
Principal Planner	\$ 146	-	\$ 157	\$ 159	\$ 152	0.95	-	0.8	0.8	0.8	\$ 260,810	-	\$ 236,342	\$ 239,684	\$ 228,104
Senior Planner	-	\$ 126	\$ 128	\$ 129	\$ 123	-	0.8	0.80	0.80	0.80	-	\$ 189,038	\$ 191,873	\$ 193,775	\$ 185,511
Associate Planner	-	-	-	-	\$ 131	-	-	-	-	0.10	-	-	-	-	\$ 24,628
Assistant Planner	\$ 91	\$ 83	-	-	-	0.95	0.9	-	-	-	\$ 162,615	\$ 140,842	-	-	-
Assistant Planner	\$ 83	-	-	-	-	0.8	-	-	-	-	\$ 125,193	-	-	-	-
Planning Technician	\$ 85	\$ 85	-	-	-	0.3	0.3	-	-	-	\$ 48,053	\$ 47,844	-	-	-
GIS Staff	\$ 149	\$ 135	\$ 137	\$ 130	\$ 121	0.2	0.25	0.25	0.25	0.25	\$ 55,870	\$ 63,403	\$ 64,354	\$ 61,142	\$ 56,964
Accounting Staff	\$ 112	\$ 104	\$ 98	\$ 98	\$ 87	0.3	0.25	0.25	0.25	0.25	\$ 63,388	\$ 48,974	\$ 46,207	\$ 45,924	\$ 40,784
IT staff ³	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Secretarial Staff ³	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Senior Management Staff/HR ³	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL COUNTY PERSONNEL						3.5	3	2.1	2.1	2.2	\$ 715,928	\$ 647,645	\$ 540,789	\$ 542,537	\$ 538,002

¹ Costs detailed in this Table are not reflected in summary Budget because they are split estimates for program areas.

² Costs for these staff are equally split between three program areas: Planning and Design, Restoration, and Monitoring

³ Costs for these staff services are not billed directly. They are included in the rates for the staff that are billed directly

Personnel Summary: Comparison of HCP Fee Audit Cost Projections With Conservancy's Approach to Staffing¹

Table I-1b

Personnel Cost Estimates from the Fee Audit		
	Estimated FTEs From Fee Audit Years 6-10	How These Functions Are/Will Be Performed in the Conservancy
Personnel		
Principal Planner (Executive Director)	1	Principal Planner (0.95 FTE)
Senior Planner	1	-
Senior GIS Planner	0.25	Senior GIS Planner (0.2 FTE)
Associate Planner	0.8	Contract Planner (0.4 FTE 1/2 year, 0.2 FTE 1/2 year)
Assistant Planner	0.25	Assistant Planner (0.95 FTE) and Assistant Planner (0.8 FTE)
Accountant	0.25	Accountant (0.3 FTE)
Senior Scientist ²	0.5	Principal Planner (0.95 FTE) and consultants
Project Manager ²	0.5	Principal Planner (0.95 FTE) and consultants
Technical Support ²	0.5	Planning Technician (0.3 FTE)
Preserve Manager	1	Outsourced to Conservancy land partners
Preserve Maintenance Staff	3	Outsourced to Conservancy land partners
TOTAL PERSONNEL(FROM FEE AUDIT)	9.05	

County Staff Cost Estimates for the 2015 Conservancy Budget															
	Projected Average Billing Rate					Estimated FTE					Estimated Annual Cost				
	2015	2014	2013	2012	2011	2015	2014	2013	2012	2011	2015	2014	2013	2012	2011
Deputy Director	-	\$ 168	-	-	-	-	0.5	-	-	-	-	\$ 157,544	-	-	-
Principal Planner	\$ 146	-	\$ 157	\$ 159	\$ 152	0.95	-	0.8	0.8	0.8	\$ 260,810	-	\$ 236,342	\$ 239,684	\$ 228,104
Senior Planner	-	\$ 126	\$ 128	\$ 129	\$ 123	-	0.8	0.80	0.80	0.80	-	\$ 189,038	\$ 191,873	\$ 193,775	\$ 185,511
Associate Planner	-	-	-	-	\$ 131	-	-	-	-	0.10	-	-	-	-	\$ 24,628
Assistant Planner	\$ 91	\$ 83	-	-	-	0.95	0.9	-	-	-	\$ 162,615	\$ 140,842	-	-	-
Assistant Planner	\$ 83	-	-	-	-	0.8	-	-	-	-	\$ 125,193	-	-	-	-
Planning Technician	\$ 85	\$ 85	-	-	-	0.3	0.3	-	-	-	\$ 48,053	\$ 47,844	-	-	-
GIS Staff	\$ 149	\$ 135	\$ 137	\$ 130	\$ 121	0.2	0.25	0.25	0.25	0.25	\$ 55,870	\$ 63,403	\$ 64,354	\$ 61,142	\$ 56,964
Accounting Staff	\$ 112	\$ 104	\$ 98	\$ 98	\$ 87	0.3	0.25	0.25	0.25	0.25	\$ 63,388	\$ 48,974	\$ 46,207	\$ 45,924	\$ 40,784
IT staff ³	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Secretarial Staff ³	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Senior Management Staff/HR ³	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL COUNTY PERSONNEL						3.5	3	2.1	2.1	2.2	\$ 715,928	\$ 647,645	\$ 540,789	\$ 542,537	\$ 538,002

¹ Costs detailed in this Table are not reflected in summary Budget because they are split estimates for program areas.
² Costs for these staff are equally split between three program areas: Planning and Design, Restoration, and Monitoring.
³ Costs for these staff services are not billed directly. They are included in the rates for the staff that are billed directly.

Program Administration and Permit Program¹

Table I-2

	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget					Notes		
					2015	2014	2013	2012	2011			
Capital Costs												
Office Space	\$ 28,500	\$ 5,700			-	-	-	-	-	Costs included in planner rates		
Office Equipment by Employee	\$ 20,200	\$ 4,040			-	-	-	-	-	Costs included in planner rates		
General Office Equipment	\$ 39,000	\$ 7,800	Included in staff and overhead costs	Included in staff and overhead costs	-	-	-	-	-	Costs included in planner rates		
GIS/Database Equipment	\$ 32,500	\$ 6,500			-	-	-	-	-	-	Costs included in planner rates	
Maintenance of General Office Equipment	\$ 2,275	\$ 455			-	-	-	-	-	-	Costs included in planner rates	
Maintenance of GIS Database equipment	\$ 3,250	\$ 650			-	-	-	-	-	-	Costs included in planner rates	
Capital Subtotal	\$ 125,725	\$ 25,145					\$ -	\$ -	\$ -	\$ -	\$ -	
Staff and Overhead	(4.5 FTE)	(4.5 FTE)			(2.35 FTE)	(2.35 FTE)						
Executive Director	\$ 673,200	\$ 134,640	-	-	-	-	-	-	-	Principal planner performs these functions		
IT-Database/GIS Manager	\$ 437,580	\$ 87,516	-	-	-	-	-	-	-	GIS Planner and Assistant Planners share these responsibilities; IT staff costs included in planner rates		
Budget Analyst	\$ 370,260	\$ 74,052	-	-	-	-	-	-	-	Duties performed by County finance team		
Acquisition Specialist	\$ 504,900	\$ 100,980	-	-	-	-	-	-	-	Outsourced to EBRPD; Principal Planner and Assistant Planner provide this function		
Grant Specialist/Conservation Planner	\$ 471,240	\$ 94,248	-	-	-	-	-	-	-	Principal Planner and Assistant Planner perform these functions		
Administrative - Secretary	\$ 302,940	\$ 60,588	-	-	-	-	-	-	-	Secretary costs included in planner rates		
Deputy Director	-	-	\$ 728,500	\$ 145,700	-	\$ 63,018	-	-	-			
Principal Planner	-	-	-	-	\$ 109,815	-	\$ 88,628	\$ 89,881	\$ 114,052	Principal Planner 0.40 FTE (position has budget increments in other categories)		
Senior planner	-	-	\$ 355,320	\$ 71,064	-	\$ 59,074	\$ 71,952	\$ 72,666	\$ 69,567			
Senior GIS Planner	-	-	\$ 317,250	\$ 63,450	\$ 27,935	\$ 38,042	\$ 38,612	\$ 36,685	\$ 34,178	Senior GIS Planner 0.1 FTE (position also has budget increment in other categories)		
Assistant Planner	-	-	\$ 199,750	\$ 39,950	\$ 77,028	\$ 46,947	-	-	-	Assistant Planner 0.45 FTE (position also has budget increments in other categories)		
Assistant Planner	-	-	-	-	\$ 125,193	-	-	-	-	Assistant Planner 0.80 FTE (position also has budget increments in other categories)		
Accountant	-	-	\$ 227,950	\$ 45,590	\$ 63,388	\$ 48,974	\$ 46,207	\$ 45,924	\$ 40,784	Accountant 0.3 FTE		
Planning Technician	-	-	-	-	\$ 48,053	\$ 15,948	-	-	-	Planning Technician 0.3 FTE (position also has budget increments in other categories)		
Staff and Overhead Subtotal	\$ 2,760,120	\$ 552,024	\$ 1,828,770	\$ 365,754	\$ 451,412	\$ 272,003	\$ 245,400	\$ 245,156	\$ 258,581			
Operational Costs												
Travel	\$ 32,813	\$ 6,563	\$ 20,000	\$ 4,000	\$ 4,000	\$ 4,000	\$ 4,000	\$ 4,000	\$ 3,000			
Vehicle/Mileage Allowance	\$ 4,809	\$ 962	\$ 20,000	\$ 4,000	\$ 4,000	\$ 4,000	\$ 4,000	\$ 4,000	\$ 5,000			
Insurance	\$ 203,500	\$ 40,700	\$ 100,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000			
Legal Assistance	\$ 150,000	\$ 30,000	\$ 388,800	\$ 77,760	\$ 150,000	\$ 250,000	\$ 50,000	\$ 50,000	\$ 50,000	Includes legislative and permitting support		
Financial Analysis Assistance	\$ 15,500	\$ 3,100	\$ 115,000	\$ 23,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 40,000	Annual outside audit (no fee audit this year)		
JPA Member Meeting Stipend	\$ 15,000	\$ 3,000	-	-	-	-	-	-	-			
In-lieu Funding for Law Enforcement/Fire	\$ 28,519	\$ 5,704	\$ 25,005	\$ 5,001	-	-	-	-	-			
Contract Planner	-	-	-	-	\$ 53,580	\$ 157,920	\$ 165,440	\$ 165,440	\$ 150,400	Assists with permitting (0.4 FTE at \$95/hr for first half of 2015, and 0.2 FTE at \$95/hr for second half)		
Contractor Assistance with Program Administration	-	-	-	-	\$ 60,000	\$ 60,000	\$ 60,000	\$ 60,000	\$ 60,000	Annual report, database analysis, technical review of permit applications; general technical support		
Membership in CHCPC	-	-	\$ 25,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	Primary method for implementing the legislative program		
Miscellaneous Equipment and Supplies	-	-	\$ 5,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	-	Dedicated Conservancy laptop, refreshments for Board meetings, etc.		
East County Water Management Assoc.	-	-	-	-	\$ 5,000	\$ 5,000	\$ 10,000	\$ 10,000	\$ 10,000	Conservancy's projected share of IRWMP grant writing costs		
Public Relations and Outreach	\$ 125,000	\$ 25,000	\$ 145,000	\$ 29,000	\$ 15,000	\$ 15,000	\$ 25,000	\$ 25,000	\$ 5,000	Includes intern for legislative effort, public outreach, web page, publications		
Operational Subtotal	\$ 575,141	\$ 115,028	\$ 843,805	\$ 168,761	\$ 337,580	\$ 541,920	\$ 364,440	\$ 364,440	\$ 348,400			
TOTAL	\$ 3,460,986	\$ 692,197	\$ 2,672,575	\$ 534,515	\$ 788,992	\$ 813,923	\$ 609,840	\$ 609,596	\$ 606,981			

¹ Tasks include administration of take authorization program, public outreach and involvement, financial management, grant applications and management, legal assistance and other general tasks associated with Conservancy operations.

Land Acquisition

Table I-3

Capital Costs

	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est. ¹	Cost Estimate Used for Conservancy Budget				
					2015	2014	2013	2012	2011
Land Costs	\$ 29,485,080	\$ 5,897,016	\$ 21,558,779	\$ 4,311,756	\$ 11,000,000	\$ 22,000,000	\$ 13,750,000	\$ 11,000,000	\$ 13,750,000
Due Diligence	\$ 1,285,710	\$ 373,623	\$ 938,163	\$ 187,633	\$ 306,312	\$ 274,765	\$ 229,084	\$ 228,217	\$ 225,099
Planning Surveys	\$ 46,425	\$ 9,285	-	-	-	-	\$ 50,000	\$ 40,000	\$ 50,000
Site Improvements	\$ 925,344	\$ 192,783	\$ 727,579	\$ 145,516	\$ 140,000	\$ 160,000	\$ 160,000	\$ 140,000	\$ 140,000
TOTAL	\$ 31,742,559	\$ 6,472,707	\$ 23,224,521	\$ 4,644,904	\$ 11,446,312	\$ 22,434,765	\$ 14,029,084	\$ 11,268,217	\$ 14,025,099

Land Cost Estimates and Assumptions

	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget				
					2015	2014 ²	2013	2012	2011
Number of parcels	40	8	-	-	10	30	12	10	12
Number of properties	-	-	-	-	5	6	6	5	6
Overall acreage acquired	5,060	1,012	-	-	2,000	4,000	2,500	2,000	2,500
Average cost per acre	-	-	-	-	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500	\$ 5,500
TOTAL	\$ 29,495,080	\$ 5,899,016	\$ 21,558,779	\$ 4,311,756	\$ 11,000,000	\$ 22,000,000	\$ 13,750,000	\$ 11,000,000	\$ 13,750,000

Due Diligence

	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget				
					2015	2014	2013	2012	2011
Number of Parcels to be Purchased	40	8.4	-	-	10	30	12	10	12
Number of Parcels Investigated	50	10.6	-	-	16	14	14	12	14
Appraisals	\$ 204,000	\$ 43,248	-	-	-	-	-	-	-
Preliminary Title Report	\$ 25,500	\$ 5,406	-	-	-	-	-	-	-
Phase I Site Assessment	\$ 306,000	\$ 64,872	-	-	-	-	-	-	-
Boundary Survey	\$ 312,120	\$ 66,239	-	-	-	-	-	-	-
Legal Description	\$ 204,000	\$ 43,248	-	-	-	-	-	-	-
Monumentation	\$ 234,090	\$ 49,629	\$ 646,763	\$ 129,353	-	-	-	-	-
Land Acquisition Specialist	\$ 504,900	\$ 100,980	-	-	-	-	-	-	-
Deputy Director	-	-	\$ 291,400	\$ 58,280	-	\$ 31,509	\$ 29,543	\$ 29,960	\$ 28,513
Principal Planner (0.2 FTE)	-	-	-	-	\$ 54,907	-	-	-	-
Senior GIS Planner (0.1 FTE)	-	-	-	-	\$ 27,935	\$ 25,361	\$ 25,742	\$ 24,457	\$ 22,786
Contract Planner	-	-	-	-	-	-	\$ 18,800	\$ 18,800	\$ 18,800
Assistant Planner (0.4 FTE)	-	-	-	-	\$ 68,470	\$ 46,947	-	-	-
Planning Technician	-	-	-	-	-	\$ 15,948	-	-	-
Proposed Agreement with EBRPD	-	-	-	-	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000
Legal support to land acquisition	-	-	-	-	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000
Due diligence contingency	-	-	-	-	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000
Due diligence costs with other partners	-	-	-	-	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000
TOTAL	\$ 1,790,610	\$ 373,623	\$ 938,163	\$ 187,633	\$ 306,312	\$ 274,765	\$ 229,084	\$ 228,217	\$ 225,099

¹ 2012 Fee Audit assumes 3% flat due diligence costs and does not account for annual variations in level of acquisition costs

² The \$14.2 million purchase of Roddy Ranch, approved in 2013 and which closed escrow in 2014, explains the increase in the 2014 land acquisition budget relative to previous years.

Table I-3 (continued)

Pre-Acquisition Assessment/Planning Surveys									
	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget				
					2015	2014	2013	2012	2011
Land cover type surveys	-	-	-	-	-	-	\$ 10,000	\$ 8,000	\$ 10,000
Covered Species	-	-	-	-	-	-	\$ 10,000	\$ 8,000	\$ 10,000
Covered Plant Surveys	-	-	-	-	-	-	\$ 10,000	\$ 8,000	\$ 10,000
Covered Wildlife Surveys	-	-	-	-	-	-	\$ 10,000	\$ 8,000	\$ 10,000
Assess & document conservation value	-	-	-	-	-	-	\$ 10,000	\$ 8,000	\$ 10,000
Planning Survey Subtotal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 50,000	\$ 40,000	\$ 50,000

Notes: HCP assumes that by Year 6, preserve management staff will be in place and will perform these surveys as part of the monitoring budget. Such staff is not in place. The estimated annual cost in the HCP for years 1 to 5 is \$221,883. These assessment/planning surveys are accounted for in Monitoring, Research, and Adaptive Management

Site Improvements									
	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget				
					2015	2014	2013	2012	2011
Number of Parcels Purchased	40	8	n/a	n/a	10	12	12	10	12
Demolition of Old Facilities	\$ 204,000	\$ 42,500	\$ 39,799	\$ 7,960	\$ 25,000	\$ 30,000	\$ 30,000	\$ 25,000	\$ 30,000
Repair of Boundary Fence	\$ 374,544	\$ 78,033	\$ 359,439	\$ 71,888	\$ 55,000	\$ 60,000	\$ 60,000	\$ 55,000	\$ 60,000
Repair and Replacement of Gates	\$ 163,200	\$ 34,000	\$ 155,879	\$ 31,176	\$ 25,000	\$ 30,000	\$ 30,000	\$ 25,000	\$ 30,000
Signs (Boundary, Landmark, ect.)	\$ 102,000	\$ 21,250	\$ 96,181	\$ 19,236	\$ 15,000	\$ 20,000	\$ 20,000	\$ 15,000	\$ 20,000
Other Security (e.g., Boarding up barns)	\$ 81,600	\$ 17,000	\$ 76,281	\$ 15,256	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 25,000
TOTAL	\$ 925,344	\$ 192,783	\$ 727,579	\$ 145,516	\$ 140,000	\$ 160,000	\$ 160,000	\$ 140,000	\$ 165,000

Planning and Design (Management, Restoration, and Recreation)

Table I-4

OVERALL COST ESTIMATE

	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget					Notes
					2015	2014	2013	2012	2011	
Office Equipment	\$ 12,583	\$ 2,517	-	-	-	-	-	-	-	Included in staff costs
Vehicle Purchase	\$ 73,333	\$ 14,667	\$ 7,333	\$ 1,467	-	-	-	-	-	Included in staff costs
Staff	\$ 734,100	\$ 146,820	\$ 797,747	\$ 159,549	\$ 49,739	\$ 94,312	\$ 77,511	\$ 78,404	\$ 60,634	See detail below
Travel	\$ 21,875	\$ 4,375	\$ 6,667	\$ 1,333	\$ 2,625	\$ 2,625	\$ 2,625	\$ 2,625	\$ 2,625	
Vehicle Fuel and Maintenance	\$ 12,667	\$ 2,533	\$ 3,833	\$ 767	-	-	-	-	-	Factored into contractor rates
Contractors	\$ 283,140	\$ 56,628	\$ 1,553,599	\$ 310,720	\$ 350,000	\$ 295,000	\$ 230,000	\$ 190,000	\$ 240,000	See detail below
TOTAL	\$ 1,137,698	\$ 227,540	\$ 1,365,238	\$ 473,835	\$ 402,364	\$ 391,937	\$ 310,136	\$ 271,029	\$ 303,259	

Staff Breakdown

Position	Estimate Costs from HCP Years 6 - 10		Estimate Costs from Fee Audit Years 6 - 10		Cost Estimate Used for Conservancy Budget					Notes
	FTE		FTE		2015	2014	2013	2012	2011	
Senior Scientist	0.33 FTE	\$ 35,904	0.17 FTE	\$41,548	-	-	-	-	-	
Project Manager	0.66 FTE	\$ 66,036	0.17 FTE	\$ 27,166	-	-	-	-	-	
Technical Support	0.66 FTE	\$ 44,880	0.17 FTE	\$ 15,980	-	-	-	-	-	
Deputy Director	-	-	0.1 FTE	\$ 29,140	-	\$ 15,754	-	-	-	
Principal Planner	-	-	-	-	\$ 41,180	-	\$ 29,543	\$ 29,960	\$ 14,257	Principal Planner 0.15 FTE
Senior Planner	-	-	0.2 FTE	\$ 47,376	-	\$ 47,259	\$ 47,968	\$ 48,444	\$ 46,378	
Assistant Planner	-	-	-	-	\$ 8,559	\$ 31,298	-	-	-	Assistant Planer 0.05 FTE
TOTAL		\$ 146,820		\$ 159,549	\$ 49,739	\$ 94,312	\$ 77,511	\$ 78,404	\$ 60,634	

Contractors Breakdown

	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget					Notes
					2015	2014	2013	2012	2011	
Management and Recreation Planning	\$ 150,000	\$ 30,000	\$ 908,250	\$ 181,650	\$ 100,000	\$ 120,000	\$ 80,000	\$ 100,000	\$ 80,000	Finish 1 preserve mgmt plan and initiate 2nd, 2 systemwide plans
Restoration Planning	\$ 100,000	\$ 20,000	\$ 605,500	\$ 121,100	\$ 250,000	\$ 175,000	\$ 150,000	\$ 90,000	\$ 160,000	Start 1 large and 1 med project
Restoration Design	\$ 33,140	\$ 6,628	\$ 39,849	\$ 7,970		-	-	-	-	Lumped with planning
TOTAL	\$ 283,140	\$ 56,628	\$ 1,553,599	\$ 310,720	\$ 350,000	\$ 295,000	\$ 230,000	\$ 190,000	\$ 240,000	

Habitat Restoration/Creation

Table I-5

OVERALL COST ESTIMATE

	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget					Notes
					2015	2014	2013	2012	2011	
Restoration/Creation Construction	\$ 2,109,868	\$ 421,974	\$ 4,174,800	\$ 834,960	\$150,000	\$ 650,000	\$ 80,000	\$ 120,000	\$ 580,000	See detail below
Office Equipment	\$ 12,583	\$ 2,517	-	-	-	-	-	-	-	Included in staff costs
Vehicle Purchase	\$ 73,333	\$ 14,667	\$ 7,333	\$ 1,467	-	-	-	-	-	Factored into contractor rates
Staff	\$ 734,100	\$ 146,820	\$ 797,747	\$ 159,549	\$ 13,727	\$ 51,094	\$ 23,984	\$ 48,444	\$ 60,634	Principal Planner 0.05 FTE
Travel	\$ 21,875	\$ 4,375	\$ 6,667	\$ 1,333	\$ 2,625	\$ 2,625	\$ 2,625	\$ 2,625	\$ 2,625	
Vehicle Fuel and Maintenance	\$ 12,667	\$ 2,533	\$ 3,833	\$ 767	-	-	-	-	-	Factored into contractor rates
Contractors	\$ 542,668	\$ 108,534	\$ 2,024,778	\$ 404,956	\$ 190,000	\$ 260,000	\$ 150,000	\$ 160,000	\$ 200,000	See detail below
TOTAL	\$ 3,507,094	\$ 701,419	\$ 7,015,158	\$ 1,403,032	\$ 356,352	\$ 963,719	\$ 256,609	\$ 331,069	\$ 843,259	

Project Type	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget					Notes/Location
					2015	2014	2013	2012	2011	
Large project	-	-	-	-	-	\$ 500,000	-	-	\$ 500,000	
Small project (riparian planting, pond)	-	-	-	-	\$150,000	\$ 150,000	\$ 80,000	\$ 120,000	\$ 80,000	Riparian at Ang, Hess planting, Ang pond
TOTAL	\$ 2,109,868	\$ 421,974	\$ 4,174,800	\$ 834,960	\$150,000	\$ 650,000	\$ 80,000	\$ 120,000	\$ 580,000	

Contractors Breakdown

	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget					Notes
					2015	2014	2013	2012	2011	
Plans, Specifications, and Engineering	\$ 124,275	\$ 24,855	\$ 1,252,440	\$ 250,488	\$ 70,000	\$ 70,000	\$ 50,000	\$ 20,000	\$ 50,000	Development of future large restoration project
Bid Package Development	\$ 16,570	\$ 3,314	\$ 62,622	\$ 12,524	\$ 10,000	\$ 30,000	\$ 10,000	\$ 10,000	\$ 30,000	
Construction Oversight	\$ 70,423	\$ 14,085	\$ 292,236	\$ 58,447	\$ 10,000	\$ 40,000	\$ 10,000	\$ 10,000	\$ 20,000	Includes inspectors and construction manager
Post-construction Maintenance	\$ 331,400	\$ 66,280	\$ 417,480	\$ 83,496	\$ 100,000	\$ 120,000	\$ 80,000	\$ 120,000	\$ 100,000	Maintenance of prior projects
TOTAL		\$ 108,534	\$ 2,024,778	\$ 404,956	\$ 190,000	\$ 260,000	\$ 150,000	\$ 160,000	\$ 200,000	

Environmental Compliance

Table I-6

	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget					Notes
					2015	2014	2013	2012	2011	
NEPA/CEQA	\$ 380,000	\$ 76,000	\$ 460,200	\$ 92,040	\$ 8,000	\$ 8,000	\$ 8,000	\$ 10,000	\$ 3,000	Possible greenhouse gas addendum
CWA 404/401	-	-	\$ 13,200	\$ 2,640	\$ 8,000	\$ 8,000	\$ 8,000	\$ 2,000	\$ 15,000	Manage existing permits/start new
NHPA	\$ 41,000	\$ 8,200	\$ 49,700	\$ 9,940	\$ 8,000	\$ 8,000	\$ 8,000	\$ 2,000	\$ 20,000	Manage existing permits/start new
CDFG 1600-1607	\$ 8,000	\$ 1,600	\$ 10,100	\$ 2,020	\$ 8,000	\$ 8,000	\$ 8,000	\$ 2,000	\$ 10,000	Manage existing permits/start new
Other	\$ 30,000	\$ 6,000	\$ 34,400	\$ 6,880	-	-	-	-	-	
Report on non-covered species	-	-	-	-	\$ 5,000	\$ 5,000	\$ 5,000	\$ 15,000	\$ 20,000	Streamlines CEQA for HCP users
Staff support to project permits	-	-	-	-	\$ 8,559	\$ 19,740	\$ 14,771	-	-	Assistant Planner (0.05 FTE)
Develop regional wetlands permits	-	-	-	-	\$ 13,727	\$ 31,509	\$ 44,314	\$ 59,921	\$ 42,770	Principal Planner (0.05 FTE)
Develop regional wetlands permits	-	-	-	-	\$ 60,000	\$ 40,000	\$ 40,000	\$ 35,000	\$ 40,000	Contractor technical support
Develop regional wetlands permits	-	-	-	-	\$ 35,000	\$ 35,000	\$ 35,000	\$ 30,000	\$ 15,000	Legal support (In Lieu Fee Agreement)
Mid-year budget correction	-	-	-	-	-	-	-	-	-	
TOTAL	\$ 459,000	\$ 91,800	\$ 567,600	\$ 113,520	\$ 154,286	\$ 163,249	\$ 171,086	\$ 155,921	\$ 165,770	

HCP/NCCP Preserve Management and Maintenance

Table I-7

	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget					Notes
					2015	2014	2013	2012	2011	
Office Equipment	\$ 23,600	\$ 4,720	-	-	-	-	-	-	-	Partners/lease revenue
Vehicle Purchase	\$ 45,000	\$ 9,000	\$ 271,200	\$ 54,240	-	-	-	-	-	Partners/lease revenue
Equipment (Capital)	\$ 120,000	\$ 24,000	\$ 140,000	\$ 28,000	-	-	-	-	-	Partners/lease revenue
Field Facilities ¹	-	-	\$ 500,000	\$ 100,000	-	-	-	-	-	Partners/lease revenue
Contractors (Capital)	\$ 360,000	\$ 72,000	\$ 424,000	\$ 84,800	\$ 60,000	\$ 60,000	\$ 50,000	\$ 50,000	\$ 50,000	Construction, fencing, etc.
Recreation Facilities	\$ 302,800	\$ 60,560	-	-	-	-	-	-	-	Partners
Preserve Staff	\$ 1,464,210	\$ 292,842	\$ 2,068,000	\$ 413,600	\$ 250,000	\$ 250,000	\$ 100,000	\$ 100,000	\$ 200,000	Cost share with partners (costs covered by lease revenues not included)
Conservancy Staff Coordination/Oversight	-	-	\$ 382,580	\$ 76,516	\$ 13,727	\$ 23,630	\$ 38,756	\$ 39,202	\$ 14,257	Principal Planner (0.05 FTE)
Maintenance of Office Equipment	-	-	-	-	-	-	-	-	-	Partners/lease revenue
Travel	\$ 875	\$ 175	-	-	-	-	-	-	-	Partners/lease revenue
Vehicle Fuel and Maintenance	\$ 79,250	\$ 15,850	\$ 71,300	\$ 14,260	-	-	-	-	-	Partners/lease revenue
Equipment - Operational	\$ 260,000	\$ 52,000	\$ 304,000	\$ 60,800	-	-	-	-	-	Partners/lease revenue
Facilities Maintenance and Utilities	\$ 57,500	\$ 11,500	\$ 67,500	\$ 13,500	-	-	-	-	-	Partners/lease revenue
Water Pumping	\$ 15,000	\$ 3,000	\$ 17,620	\$ 3,524	-	-	-	-	-	Partners/lease revenue
Contractors (Operational)	\$ 596,800	\$ 119,360	\$ 526,470	\$ 105,294	\$ 50,000	\$ 50,000	\$ 20,000	\$ 20,000	-	Weed abatement, etc.
Recreation (Operational)	\$ 264,050	\$ 52,810	-	-	-	-	\$ 10,562	-	-	Partners
TOTAL	\$ 3,589,085	\$ 717,817	\$ 4,772,670	\$ 954,534	\$ 373,727	\$ 383,630	\$ 219,318	\$ 209,202	\$ 264,257	

¹ Field facilities (HCP assumes \$750K for years 1-5 and 11-15)

Monitoring, Research and Adaptive Management

Table I-8

	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget					Notes
					2015	2014	2013	2012	2011	
Office Equipment	\$ 12,583	\$ 2,517	-	-	-	-	-	-	-	Factored in staff/contractor rates
Vehicle Purchase	\$ 73,333	\$ 14,667	\$ 7,333	\$ 1,467	-	-	-	-	-	Factored in staff/contractor rates
Conservancy staff			\$ 118,440	\$ 23,688	\$ 13,727	\$ 39,384	\$ 38,756	\$ 39,202	\$ 47,817	Principal Planner (0.05 FTE)
Technical staff	\$ 734,100	\$ 146,820	\$ 415,167	\$ 83,033	-	-	-	-	-	
Vehicle Fuel and Maintenance	\$ 12,667	\$ 2,533	\$ 3,833	\$ 767	\$ -	\$ -	\$ -	\$ -	\$ -	Factored in staff/contractor rates
Travel	\$ 21,875	\$ 4,375	\$ 6,667	\$ 1,333	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	
Field Data Collection (Contractors)	\$ 1,455,690	\$ 291,138	\$ 887,424	\$ 177,485	\$ 150,000	\$ 150,000	\$ 110,000	\$ 70,000	\$ 50,000	Baseline inventory and initiate other monitoring required by preserve management plan
Directed Research	\$ 375,000	\$ 75,000	\$ 454,000	\$ 90,800	\$ 73,000	\$ 80,000	\$ 80,000	\$ 150,000	\$ 150,000	Grant-funded avian study
Adaptive Management	\$ 150,000	\$ 30,000	\$ 181,500	\$ 36,300	\$ 30,000	\$ 30,000	\$ 30,000	\$ 15,000	\$ 15,000	Based on monitoring results
TOTAL	\$ 2,835,248	\$ 567,050	\$ 2,074,364	\$ 414,873	\$ 267,727	\$ 300,384	\$ 259,756	\$ 275,202	\$ 263,817	

Remedial Measures

Table I-9

Remedial Measures									
	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget				
					2015	2014	2013	2012	2011
Remedial measures	\$30,000	\$6,000	\$30,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000
TOTAL	\$30,000	\$6,000	\$30,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000

Contingency Fund									
	Est. Costs from HCP Years 6 - 10	One-Fifth of Five-Year HCP Est.	Est. Costs from Fee Audit Years 6 - 10	One-Fifth of Five-Year Fee Audit Est.	Cost Estimate Used for Conservancy Budget				
					2015	2014	2013	2012	2011
Total cost of program excluding land acquisition and habitat restoration capital costs	\$14,463,723	\$2,892,745	\$16,123,945	\$3,224,789	\$2,343,447	\$3,016,842	\$1,950,082	\$1,852,019	\$2,447,343
Contingency Fund	\$723,186	\$144,637	\$806,197	\$161,239	\$117,172	\$150,842	\$97,504	\$92,601	\$122,367
TOTAL	\$723,186	\$144,637	\$806,197	\$161,239	\$117,172	\$150,842	\$97,504	\$92,601	\$122,367

Assumptions: 5% Percent of total program funding (other than land acquisition funding) needed for contingency fund.

Table II: Grants Awarded to Conservancy for Implementation of East Contra Costa County HCP/NCCP¹

Funding Source	Agency	Purpose	Amount	Required Match	Amount Expended (12/31/14)	Remain (12/31/14)	Grant Close Date	Complete	Notes
Section 6 (2006)	USFWS admin. by WCB	Acquisition	\$ 6,531,054	\$ 7,982,399	\$ 6,531,054	\$ -	June 2010	✓	
Section 6 (2007)		Acquisition	\$ 7,000,000	\$ 8,555,600	\$ 7,000,000	\$ -	June 2011	✓	
Section 6 (2008)		Acquisition	\$ 6,000,000	\$ 7,333,333	\$ 5,934,114	\$ -	Feb 2013	✓	
Section 6 (2009)		Acquisition	\$ 2,500,000	\$ 3,055,556	\$ 2,500,000	\$ -	Aug 2014	✓	Extended twice
Section 6 (2010)		Acquisition	\$ 6,000,000	\$ 7,333,333	\$ 6,000,000	\$ -	Aug 2014	✓	Extended once
Section 6 (2011)		Acquisition	\$ 4,463,936	\$ 5,455,922	\$ -	\$ 4,463,936	Oct 2015		Extended once
Section 6 (2012)		Acquisition	\$ 1,000,000	\$ 1,222,222	\$ -	\$ 1,000,000	Sep 2015		
Section 6 (2014)		Acquisition	\$ 2,000,000	\$ 2,444,444	\$ -	\$ 2,000,000	2018		
CVPIA - HRP	USBR	Acquisition	\$ 1,241,631	\$ 500,000	\$ 1,241,631	\$ -	Sep 2010	✓	
IRWMP - Prop 50	SWRCB	Acquisition or restoration	\$ 750,000	\$ 500,000	\$ 750,000	\$ -	June 2012	✓	
IRWMP - Prop 50 (reprogrammed)	SWRCB	Acquisition or restoration	\$ 1,400,000	\$ 500,000	\$ 1,400,000	\$ -	Mar 2012	✓	
IRWMP - Prop 84	DWR	Acquisition or restoration	\$ 650,000	\$ 216,667	\$ 650,000	\$ -	Dec 2014	✓	
NCCP Local Assistance (2006)	CDFW	Start-up staffing	\$ 40,000	\$ -	\$ 40,000	\$ -	June 2008	✓	
NCCP Local Assistance (2007)	CDFW	Start-up wetlands restoration	\$ 60,000	\$ 120,000	\$ 60,000	\$ -	Dec 2008	✓	
NCCP Local Assistance (2008)	CDFW	Wetlands restoration at Souza 2	\$ 150,000	\$ -	\$ 125,100	\$ -	April 2011	✓	
NCCP Local Assistance (2009)	CDFW	Hess Construction	\$ 150,000	\$ 111,000	\$ 150,000	\$ -	Mar 2012	✓	
NCCP Local Assistance (2010)	CDFW	Wetland and rare plant inventory	\$ 27,000	\$ -	\$ 27,000	\$ -	April 2013	✓	
NCCP Local Assistance (2010)	CDFW	Restoration project monitoring/maintenance	\$ 85,000	\$ -	\$ 85,000	\$ -	April 2013	✓	
NCCP Local Assistance (2010)	CDFW	Preserve monitoring plan development	\$ 50,000	\$ -	\$ 50,000	\$ -	April 2013	✓	
NCCP Local Assistance (2011)	CDFW	Wetland and rare plant inventory (phase 2)	\$ 40,000	\$ -	\$ 40,000	\$ -	April 2014	✓	
NCCP Local Assistance (2011)	CDFW	Restoration project monitoring/maintenance	\$ 50,000	\$ -	\$ 50,000	\$ -	April 2014	✓	
NCCP Local Assistance (2011)	CDFW	Preserve management plan development	\$ 75,000	\$ -	\$ 75,000	\$ -	April 2014	✓	
NCCP Local Assistance (2012)	CDFW	Ang pond restoration	\$ 95,000	\$ -	\$ -	\$ 95,000	April 2015		
NCCP Local Assistance (2013)	CDFW	Baseline Inventory	\$ 60,157	\$ -	\$ 30,000	\$ 30,157	March 2016		
Environmental Quality Incentives Program	NRCS	Ang riparian planting, fencing and livestock trough systems	\$ 75,585	\$ -	\$ -	\$ 75,585	Dec 2016		
Gordon and Betty Moore Foundation	-	Acquisition Fox Ridge	\$ 880,000	50% match desired	\$ 880,000	\$ -	Dec 2009	✓	
Gordon and Betty Moore Foundation	-	Acquisition and research Souza 3	\$ 2,250,000	50% match desired	\$ 2,176,969	\$ 73,031	On-going		Avian research portion on-going
Gordon and Betty Moore Foundation	-	Acquisition Fan, Galvin, Moss Rock & VF Central	\$ 1,300,000	50% match desired	\$ 1,300,000	\$ -	Jan 2012	✓	
Gordon and Betty Moore Foundation	-	Acquisition of Roddy Ranch	\$ 1,000,000	\$ -	\$ 1,000,000	\$ -	July 2014	✓	
Prop 84 NCCP account	WCB	Acquisition of Barron	\$ 973,930	\$ -	\$ 973,930	\$ -	Feb 2012	✓	
Prop 84 NCCP account	WCB	Acquisition of Thomas	\$ 1,842,966	\$ -	\$ 1,842,966	\$ -	June 2012	✓	
Prop 84 NCCP account	WCB	Acquisition of Affinito	\$ 1,005,750	\$ -	\$ 1,005,750	\$ -	Dec 2012	✓	
Prop 84 NCCP account	WCB	Acquisition of Vaquero Farms Central	\$ 230,000	\$ -	\$ 230,000	\$ -	Dec 2012	✓	
Prop 84 NCCP account	WCB	Acquisition of Thomas North	\$ 388,755	\$ -	\$ 388,755	\$ -	Aug 2013	✓	
Prop 84 NCCP account	WCB	Acquisition of Smith	\$ 2,260,275	\$ -	\$ 2,260,275	\$ -	July 2014	✓	
Prop 84 NCCP account	WCB	Acquisition of Roddy Ranch	\$ 4,841,875	\$ -	\$ 4,841,875	\$ -	July 2014	✓	
TOTAL			\$ 57,467,914	\$ 45,492,976	\$ 49,639,419	\$ 7,737,709			

¹ Funding from partners not included. EBRPD has contributed nearly \$15 million of its own funds or its grants funds to joint land acquisitions.

Acronyms:

- CDFW: California Department of Fish and Wildlife
- CVPIA HRP: Central Valley Project Improvement Act Habitat Restoration Program
- DWR: Department of Water Resources
- EBRPD: East Bay Regional Park District
- IRWMP: Integrated Regional Water Management Plan
- NCCP: Natural Community Conservation Plan
- NRCS: Natural Resource Conservation Service
- Section 6: Cooperative Endangered Species Conservation Fund, HCP Land Acquisition subaccount (authorized in Section 6 of federal Endangered Species Act)
- SWRCB: State Water Resources Control Board
- USBR: United States Bureau of Reclamation
- USFWS: United States Fish and Wildlife Service
- WCB: California Wildlife Conservation Board (affiliated with CDFW)

Table III: End of Year Budget Status, Conservancy's 2014 Budget

Expenditures and revenues include Conservancy's own funds as well as grant funds disbursed on behalf of the Conservancy

	Expenditures					
	A	B	C	D = B + C	E = A minus D	F = E/A*100
	Approved 2014 Conservancy Budget	Expenditures as of 11/20/14 ¹	Projected Expenditures for Remainder of 2014	Total Expenditures thru 12/31/14 (Actual plus Projected)	Budget Amount Remaining	Percent Remaining
Program Administration and Permitting Program	\$813,923	\$653,289	\$111,000	\$764,000	\$50,000	6%
Land Acquisition	\$22,434,765	\$15,610,544	\$11,000	\$15,622,000	\$6,813,000	30%
Planning and Design (Management, Restoration, and Recreation)	\$391,937	\$34,127	\$4,000	\$38,000	\$354,000	90%
Habitat Restoration/Creation	\$963,719	\$699,502	\$24,000	\$724,000	\$240,000	25%
Environmental Compliance	\$163,249	\$12,233	\$2,000	\$14,000	\$149,000	91%
HCP/NCCP Preserve Management and Maintenance	\$383,630	\$9,440	\$1,000	\$10,000	\$374,000	97%
Monitoring, Research, and Adaptive Management	\$300,384	\$124,728	\$15,000	\$140,000	\$160,000	53%
Remedial Measures	\$6,000	\$0	\$0	\$0	\$6,000	100%
Contingency Fund (5% of non-land acquisition costs)	\$150,842	\$0	\$0	\$0	\$151,000	100%
TOTAL EXPENDITURES	\$25,608,449	\$17,143,863	\$168,000	\$17,312,000	\$8,297,000	32%
FEE REVENUE FOR 2014 (actual + projected)²				\$1,719,000		
GRANT REVENUE 2014 (actual + projected)				\$15,522,000		
TOTAL REVENUE 2014 (actual + projected)				\$17,241,000		
DIFFERENCE BETWEEN YTD REVENUES & EXPENDITURES (projected)				-\$70,000		
ESTIMATED FUNDS IN CONSERVANCY ACCOUNTS, December 31, 2014³				\$2,290,000		

¹ Includes only costs actually paid. Cost for work performed but not yet billed is not included. Projections in Column C include these amounts.

² Includes revenue from all HCP mitigation fees, charges for staff time and contributions to recovery from Participating Special Entities.

³ Does not include more than \$8 million in grant revenue that has been approved but not received before 12/31/2014 (nor does it include Proposition 84 funds allocated for Delta County NCCPs). The fund balance also does not include the California Wildlife Foundation account which is held in trust for the Conservancy but is controlled by the wildlife agencies. That account has a current balance of approximately \$3.5M.

Table IV: Budget for Lease Revenue Received and Spent by the East Bay Regional Park District

Revenue from wind power, communication and residential leases on Preserve System lands acquired by EBRPD in partnership with the Conservancy

Revenues

Description	Amount	
2015 (projection)	\$ 520,000	
2014 (YTD actuals) ¹	\$ 425,859	
2013 (actuals)	\$ 522,708	
2010-2012 (actuals)	\$ 901,000	
Total Revenue 2010-2015 (actual and projected)	\$ 2,369,567	

Expenditures and Allocations

Description	Amount	Comments
2015 (Proposed)²		
Ranger Staff Cost for all Preserve System Lands	\$ 250,920	Represents cost for one Supervisor II + one Park Ranger II
Maintenance Supplies	\$ 20,000	Includes materials and tools employed by rangers.
Maintenance Services	\$ 40,000	Includes access road maintenance, vegetation/weed management, property clean-up and livestock watering.
<i>Management Subtotal</i>	\$ 310,920	
Allocation to Reserve for Long Term Management	\$ 130,000	25% of projected revenues
Allocation to Land Acquisition	\$ 78,000	15% of projected revenues
Total (2015)	\$ 518,920	
2014 (YTD Actuals)³		
Ranger Staff Cost for all Preserve System Lands	\$ 149,771	Represents cost for one Supervisor II + one Park Ranger II
Maintenance Supplies	\$ 1,876	Includes materials and tools employed by rangers.
Maintenance Services	\$ 630	Includes access road maintenance, vegetation/weed management, property clean-up and livestock watering.
<i>Management Subtotal</i>	\$ 152,278	
Allocation to Reserve for Long Term Management	\$ 106,465	25% of actual revenues
Allocation to Land Acquisition	\$ 63,879	15% of actual revenues
Total (2014)	\$ 322,621	
2013 (Actuals)		
Ranger Staff Cost for all Preserve System Lands	\$ 242,000	Represents cost for one Supervisor II + one Park Ranger II
Maintenance Supplies	\$ 10,672	Includes materials and tools employed by rangers.
Maintenance Services	\$ 18,218	Includes access road maintenance, vegetation/weed management, property clean-up and livestock watering.
<i>Management Subtotal</i>	\$ 270,889	
Allocation to Reserve for Long Term Management	\$ 130,677	25% of actual revenues
Allocation to Land Acquisition	\$ 78,406	15% of actual revenues
Total (2013)	\$ 479,972	
2010, 2011 & 2012		
Ranger Staff Cost for all Preserve System Lands (2011 and 2012)	\$ 240,000	Represents cost for one Supervisor II. No expenditures in 2010.
Allocation to Reserve for Long Term Management	\$ 225,250	25% of actual revenues
Allocation to Land Acquisition	\$ 135,150	15% of actual revenues
Total (2010-2012)	\$ 600,400	
Management Expenditures (Actuals and Projected 2011-2015)	\$ 974,087	
Allocation to Reserve for Long Term Management (2010-15 revenues)	\$ 592,392	
Allocation to Land Acquisition (2010-15 revenues)	\$ 355,435	
GRAND TOTAL (Actuals and Projected 2010-2015)	\$ 1,921,914	
Balance (projected unspent and unallocated revenues)	\$ 447,653	

¹ As of November 20, 2014.

² 2015 expenditures are preliminary numbers. EBRPD Budget for 2015 has not been approved yet and will go to their Board on December 16, 2014

³ 2014 YTD actuals: These numbers are as of November 21, 2014. Additional expenditures expected to occur toward end of the year. Staff costs are low due to Supervisor II on leave. Maintenance supplies are low due to purchases made in 2013.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 8, 2014
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: **Implementation Policy Regarding Contribution to Recovery for Participating Special Entity Projects**

RECOMMENDATION

APPROVE Implementation Policy regarding calculating contribution to recovery charges related to Participating Special Entities seeking take authorization from the East Contra Costa County Habitat Conservancy, as recommended by Conservancy staff and the Public Advisory Committee (PAC).

DISCUSSION

At the April 4, 2013 Governing Board meeting, the Board asked Staff to consult the Public Advisory Committee in preparing an implementation policy to standardize the Conservancy’s method for calculating Contribution to Recovery (CTR) charges on future Participating Special Entity (PSE) projects. Conservancy staff conducted a thorough review of the contribution to recovery charges for previously covered PSE projects and provided several calculation methodologies to the Public Advisory Committee (PAC) for consideration and discussion. At its November 13, 2014 meeting, the PAC recommended the Board approve the attached CTR implementation policy.

In the past, Conservancy staff has calculated the CTR on a case-by-case basis based on a number of factors including, but not limited to, the type and scale of ground disturbing impacts, the overall cost of the project, the liability for extending take coverage to a PSE, and/or whether the PSE’s governing body shares representation from all of the same jurisdictions participating in the HCP/NCCP. Of the 19 PSE projects covered by the HCP/NCCP to date, the average CTR charge was 60% of the mitigation fee total. Staff has incorporated the various factors implemented in previous CTR calculation approaches to develop a standardized implementation policy that is applicable to all PSE projects.

CONTINUED ON ATTACHMENT: Yes
 ACTION OF BOARD ON: December 8, 2014 APPROVED AS RECOMMENDED: _____
 OTHER: _____

VOTE OF BOARD MEMBERS

___ UNANIMOUS
 ___ AYES: _____
 ___ NOES: _____
 ___ ABSENT: _____
 ___ ABSTAIN: _____

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.

ATTESTED _____
*John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY
 HABITAT CONSERVANCY*

BY: _____, DEPUTY

The proposed policy provides a tiered structure for calculating CTR charges that is generally consistent with past practices. However, establishing a CTR policy will ensure consistency and create more certainty for Participating Special Entities in predicting overall fees. Staff seeks approval of the attached implementation policy that sets forth a standardized method for determining the Contribution to Recovery charge required from Participating Special Entity projects covered by the HCP/NCCP.

Attachment:

- Draft Contribution to Recovery Implementation Policy

For Consideration on 12-8-14

Implementation Policy of the East Contra Costa County Habitat Conservancy (Conservancy) regarding calculating Contribution to Recovery charges related to Participating Special Entities seeking take authorization from the Conservancy

Background: As set forth in the East Contra Costa County HCP/NCCP, the Conservancy may charge a Participating Special Entity supplemental fees to aid the Conservancy in covering costs associated with the implementation of the HCP/NCCP that are not included in the impact fees. As explained in the following excerpt from Chapter 8.4 of the HCP/NCCP, charging Participating Special Entities (PSEs) a Contribution to Recovery (CTR) was an approach to funding the Conservancy's requirement to contribute to the recovery of covered species and other costs not covered by the fees:

The Implementing Entity may require Participating Special Entities to pay fees over and above those specified in Chapter 9 to cover indirect costs of extending permit coverage under the HCP/NCCP, including the costs of Implementing Entity staff time to assist with permit coverage, a portion of the costs of the initial preparation of the Plan, and a portion of the costs of conservation actions designed to contribute to species recovery.

Below please find additional information on costs not covered by standard mitigation fees.

Additional Conservation Actions: Under the Natural Community Conservation Planning Act¹ a Natural Community Conservation Plan (NCCP) provides a method for conserving species on a large geographic scale and must contribute to recovery of covered species. The HCP/NCCP requires the Conservancy to assemble a Preserve System that not only mitigates impacts to covered activities (mitigation) but to also contributes to the recovery of covered species (conservation). As described in Chapter 5 and Appendix H of the Plan, 52% of the Preserve System is required for mitigation and 48% is required for conservation. The development and wetland mitigation fees are used to pay for the mitigation component where as other sources such as public funds and CTR from PSEs are used to pay for the conservation component.

Post-Permit Preserve System Management: In addition to the above costs associated with the Plan, the responsibility for funding post-permit management and monitoring of the Preserve System rests solely with the local participating agencies. Current HCP/NCCP mitigation fees are based on the estimated costs of management during the permit term and do not reflect the costs of post permit term management. The HCP/NCCP envisions these costs being covered through alternative mechanisms. The CTR charges will be used to supplement other revenue sources for funding post-permit term Preserve System management.

Plan Preparation: The initial cost to prepare the HCP/NCCP was over 1.8 million dollars. This cost was covered mainly by grants secured by the local agency Plan Permittees in order to develop an effective framework to protect natural resources in eastern Contra Costa County and improve and

¹ Cal. Fish and Game Code § 2800 and following.

streamline the environmental permitting process for impacts on endangered species. PSEs did not contribute to the plan preparation cost. CTR charges will be used to assist in relieving a portion of this initial cost to the Permittees that are extending incidental take coverage.

Staff Time: Participating Special Entities reimburse the Conservancy for staff time expenses related to processing applications on a time and materials basis. These fees are separate from CTR charges.

Guidelines for Calculating the Contribution to Recovery

1. For projects with cumulative permanent development fees, temporary development fees and wetland mitigation fees less than or equal to \$1,000 the Conservancy will require a minimum contribution to recovery charge of \$1,000.
2. For projects with cumulative permanent development fees, temporary development fees and wetland mitigation fees greater than \$1,000 and less than or equal to \$10,000, the Conservancy will require a contribution to recovery charge equal to the development and/or wetland mitigation fee total (100%).
3. For projects with cumulative permanent development fees, temporary development fees and wetland mitigation fees greater than \$10,000 the Conservancy will require a contribution to recovery charge that is equal to the first \$10,000 (100%) plus one half of the remaining development and/or wetland mitigation fee total (50%).
 - For example, if the permanent or temporary development and/or wetland mitigation fee is \$20,000, the applicant would be required to pay a total of \$15,000 for the contribution to recovery charge. This is calculated based on charging \$10,000 on the first \$10,000 (100%) and \$5,000 on the remaining \$10,000 (50%).
4. Projects with cumulative development and wetland mitigation fees greater than \$50,000 which are paying *permanent* development and/or wetland mitigation fees are for *temporary* impacts, the Conservancy will require a contribution to recovery charge that is equal to the development and/or wetland mitigation fee up to \$10,000, plus one half of the remaining mitigation fee up to \$50,000, and an additional 10% charge on the remaining balance of the development and/or wetland mitigation fee.
 - For example, if the applicant's permanent development and/or wetland mitigation fee for temporary impacts is \$80,000 the applicant would be required to pay a total of \$33,000 for the contribution to recovery charge. This is calculated based on charging \$10,000 on the first \$10,000 (100%), \$20,000 on the remainder up to \$50,000 (50% of \$40,000), and \$3,000 for the remaining \$30,000 (10%).
5. For projects where the applicant is a joint exercise of powers authority composed of two or more agencies which are also members of the Conservancy, the same calculation up to \$50,000 will be applied (1-3). However, for *permanent and temporary* development

and/or wetland mitigation fees greater than \$50,000 the CTR on the portion of the fee above \$50,000 will be 10%.

- For example, if the permanent or temporary development and/or wetland mitigation fee is \$80,000 the applicant would be required to pay a total of \$33,000 for the contribution to recovery charge. This is calculated based on charging \$10,000 on the first \$10,000 (100%), \$20,000 on the remainder up to \$50,000 (50% of \$40,000), and \$3,000 for the remaining \$30,000 (10%).
6. For projects that impose unique or challenging mitigation measures on the Conservancy, staff will recommend adjusting the Contribution to Recovery charge to address the increased costs of fulfilling mitigation and species recovery obligations. Staff will recommend all Contribution to Recovery charge adjustments to the Conservancy Governing Board for approval.
- For example, additional CTR charges should be required for projects with impacts to vernal pool invertebrates, giant garter snake, Swainson's hawk nest trees or other species with unique mitigation requirements in the HCP/NCCP. The Plan requires the Conservancy to mitigate such impacts with occupied habitat. Such actions are more costly than standard habitat protection and restoration measures.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 8, 2014
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Clayton Radio Property Acquisition

RECOMMENDATION

AUTHORIZE staff to execute a funding agreement with the East Bay Regional Park District (“EBRPD”), and one federal subgrant agreement with the California Wildlife Conservation Board (WCB) for federal funds for acquisition of the Clayton Radio Property (APN 075-170-002); Nortonville Road, Contra Costa County, CA.

DISCUSSION

Overview of Property and Potential Acquisition:

The Clayton Radio Property (Property) totals 2.02 acres and is located on Nortonville Road in Contra Costa County, CA. Photos and maps showing the Property, its location and condition are provided in the attached Pre-Acquisition Assessment.

The Property is currently owned by Alfred L. Marks, III. East Bay Regional Park District (EBRPD) and the Seller (Alfred L. Marks, III) have reached agreement on the purchase of the Property. EBRPD commissioned an appraisal of the Property which was completed May 7, 2014 and established the fair market value of the Property at \$117,000, which is also the purchase price.

EBRPD’s purchase is contingent on support from the Conservancy.

CONTINUED ON ATTACHMENT: <u>Yes</u>	APPROVED AS RECOMMENDED: _____
ACTION OF BOARD ON: <u>December 8, 2014</u>	
OTHER: _____	
<u>VOTE OF BOARD MEMBERS</u>	
<input type="checkbox"/> UNANIMOUS	I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN. ATTESTED _____ <i>John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</i>
AYES: _____	
NOES: _____	
ABSENT: _____	
ABSTAIN: _____	
BY: _____, DEPUTY	

Proposed Funding Plan: The proposed funding plan for the acquisition of the Property is provided in Table 1 below. None of the Conservancy’s own funds are proposed.

Table 1. Proposed Funding for Purchase of Property

Source	Total
EBRPD	\$29,250
Federal Section 6 HCP Land Acquisition Grant	\$87,750
Total	\$117,000

The Federal Section 6 funds necessary to implement the Proposed Funding Plan are available through previously approved grant awards to the State for implementation of the ECCC HCP/NCCP and the Property is an eligible property under these approved awards. A subgrant agreement with WCB is necessary to expend the federal funds (see additional information on necessary agreements below). EBRPD would provide its contribution through Measure WW Bond Funds (Measure WW was approved by the voters in 2008). No Conservancy funds would be contributed to the purchase.

Staff recommends the proposed funding plan because:

- The Funding Plan should rely most on those funding sources that are nearest to expiring or otherwise being lost. \$5.46 million in currently unspent Section 6 grant funds are scheduled to expire in 2015. The Funding Plan relies most heavily on this source of funding.
- The Conservancy’s direct contribution is \$0.

Would Acquisition of the Property Help the Conservancy Achieve the Conservation Goals of the HCP/NCCP?

Yes. Conservancy staff prepared a Pre-Acquisition Assessment of the Property to examine and document the biological resources and restoration potential on the Property and to assess the ability of the Property to meet the conservation requirements of the HCP/NCCP. The following excerpts from the Pre-Acquisition Assessment provide a summary of the Property (the full report is attached). Table 2 provides a summary of the collective acres of land cover that would be protected by this acquisition.

The Property is an in-holding within the Barron property (EBRPD-owned, and acquired in partnership with the Conservancy). The Property consists of one parcel totaling approximately 2.02 acres. The Property is approximately 2.3 miles west of the City of Clayton and roughly 3 miles south of the City of Antioch. Clayton Radio is square-shaped, with equal boundary lengths of 300 feet, and is located atop a hill formation.

The Property is located in Zone 2, and within subzone 2b. Stay-Ahead Measurement Method #2, as described in Chapter 8 of the HCP/NCCP, was created to encourage land acquisition in Zone 2 early in the Plan implementation because the land in Zone 2 has high value and risk compared to other zones. It can also be a challenging area in which to acquire habitat lands because rural residential development and speculative investing for suburban development have limited the number of owners interested in selling for public open space. Subzone 2b is designated as high

priority for acquisition for the Preserve System to connect Black Diamond Mines Regional Preserve and Clayton Ranch Regional Preserve. Zone 2 acquisitions are of critical importance to the HCP because the area supports a variety of high quality habitat for several key species and serves a critical connectivity function for San Joaquin kit fox. Clayton Radio is a critical acquisition because it will contribute to the connection of Black Diamond Mines Regional Preserve and Clayton Ranch Regional Preserve, and eliminates a developed in-holding in the middle of park land.

Within Zone 2, specific conservation targets exist for land cover and species habitat. Acquisition of the Property would contribute to annual grassland requirements in subzone 2b (0.33%), albeit minimally.

Table 2. Land Cover Types on Property

Land Cover Type (acres)	Clayton Radio	HCP Land Acquisition Requirements (acres)	Percent of Land Acquisition Requirements
Annual grassland	1.5	16,500	0.00%
Oak Woodland	0.15	400	0.00%

Though small compared to most Preserve System acquisitions (~2.02 acres), the property is surrounded by protected natural habitat and has the potential to contribute habitat for covered species. Given the surrounding land ownership and uses, species disturbance from the surrounding neighboring land will be limited. Demolition of the structure, if decided upon, will allow the site to be restored to its natural habitat.

Although minimally contributing to the HCP/NCCP land acquisition requirements for annual grassland and oak woodland, acquisition of the Property would eliminate an in-holding in the center of preserve land, and has the potential to provide suitable habitat for several covered species. Therefore, staff finds that acquisition of the Property will help the Conservancy to achieve the conservation goals of the HCP/NCCP.

Deadline: The parties hope the transaction can close by April 30, 2015. The principal timing constraints will be the timing of the Conservancy’s federal funds.

Conservancy costs and funding sources: The Conservancy’s total out-of-pocket contribution to the acquisition would be \$0. The Conservancy would arrange for its grant funds to cover \$87,750.

Future Conservancy actions: The Board would need to approve a Management Plan that covers the Property and funding agreements for management.

Agreements: The Funding Agreement with EBRPD and the Subgrant Agreement with WCB would follow the general form shown in the attached templates, with funding amounts matching the Funding Plan described above.

Reasons for recommendation: Staff recommends the purchase of the Property for the following reasons:

- The Property has demonstrated willing sellers. Land acquisition under the HCP/NCCP is on a willing seller basis and must seize opportunities when presented.
- The Property is located in a high priority acquisition subzone and its preservation would remove an in-holding and access easement.
- The Property is located in an area eligible for funding from the Conservancy's approved federal Section 6 grants. The Property can be acquired to meet the goals of the HCP/NCCP without expenditure of the Conservancy's own funds.
- The HCP/NCCP conservation requirements have a time element and all of the grant funds have a deadline for expenditure. The Conservancy shouldn't rush into acquisitions or choose speed over quality, but when presented with affordable opportunities to acquire lands that contribute HCP/NCCP conservation requirements, staff believes it is prudent for the Conservancy to act affirmatively.

Attachments:

- Pre-Acquisition Assessment for Clayton Radio
- Templates of EBRPD Funding Agreement and WCB Subgrant Agreement (federal)

Pre-Acquisition Assessment East Contra Costa County HCP/NCCP Preserve System

EAST CONTRA COSTA
COUNTY HABITAT
CONSERVANCY

SITE IDENTIFICATION

City of Brentwood

City of Clayton

City of Oakley

City of Pittsburg

Contra Costa County

Site Name: Clayton Radio

Site Address/location: Nortonville Road, Contra Costa County, CA

Property APN(s) #: 075-170-002

Size of Parcel(s): Approximately 2.02 acres

Survey Overview: The pre-acquisition assessment on potential preserve lands evaluates whether these lands will meet the requirements of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). The assessment includes the location, quantity, quality, and types of habitats and natural communities on the site, as well as other site conditions and infrastructure that would support or conflict with the Preserve System's biological goals and objectives. This survey will help the East Contra Costa County Habitat Conservancy prioritize acquisition of preserve lands based on the lands' relative contribution to meeting the biological goals and objectives.

Photo-documentation: Photographs of landscape features and other aspects of the site are attached as Appendix A.

Figures: The following figures are attached as Appendix B.

- Regional Context (Figure 1)
- Consistency with HCP/NCCP Acquisition Priorities (Figure 2)
- Orthographic (Aerial) Photo of Parcels (Figure 3)
- Terrestrial and Aquatic Land Cover Types (Figure 4)
- Ownership of Adjacent Property (Figure 5)

LANDSCAPE AND COMMUNITY LEVEL ELEMENTS

I. Overview and Regional Context (Figures 1, 2 and 3)

The Clayton Radio LLC property (Property) is an in-holding within the Barron property (EBRPD-owned, and acquired in partnership with the Conservancy). The Property consists of one parcel totaling approximately 2.02 acres. The Property is approximately 2.3 miles west of the City of Clayton and roughly 3 miles south of the City of Antioch. Clayton Radio is square-shaped, with equal boundary lengths of 300 feet, and is located atop a hill formation with an approximate elevation of 1,620 feet. The property represents another opportunity to pursue conservation in this critical area.

The Property is located in Zone 2, and within subzone 2b. Stay-Ahead Measurement Method #2, as described in Chapter 8 of the HCP/NCCP, was created to encourage land acquisition in Zone 2 early in the Plan implementation because the land in Zone 2 has high value and risk compared to other zones. It can also be a challenging area in which to acquire habitat lands because rural residential development and speculative investing for suburban development have limited the number of owners interested in selling for public open space. Subzone 2b is designated as high priority for acquisition for the Preserve System to connect Black Diamond Mines Regional Preserve and Clayton Ranch Regional Preserve. High priority Zone 2 acquisitions are of critical importance to the HCP because the area supports a variety of high quality habitat for several key species and serves a critical connectivity function for San Joaquin kit fox. Clayton Radio is a critical acquisition because it will contribute to the connection of Black Diamond Mines Regional Preserve and Clayton Ranch Regional Preserve, and avoids a developed in-holding in the middle of park land.

Within Zone 2, specific conservation targets exist for land cover and species habitat. Acquisition of the Property would contribute to annual grassland requirements in subzone 2b (0.33%), albeit minimally.

The property also supports outstanding scenery and views, including expansive vistas of neighboring counties and physical features such as Mount Diablo, Mount Tamalpias in Marin County, Mount Helena in Sonoma County, Mount Vaca in Solano County, and the East Bay hills.

II. Land Cover Types (Figure 4)

Land Cover Type (see Chapter 3 of the HCP/NCCP for definitions)	Area (acres)
Terrestrial Land Cover Types	
Annual grassland	1.5
Oak woodland	0.15
Urban	0.37
Total area of terrestrial land cover	2.02

III. Proximity to Development (see Figure 1)

Type of Development (urban, suburban, rural, commercial, etc)	Distance from Site (miles)	General description of development and influence on site.
On-site rural development	On site	The property contains a 3,365 square foot concrete bunker
Urban development	Approximately 2.3 miles	The property is located approximately 2.3 miles east of the Town of Clayton.

IV. Requirements in Specific Acquisition Analysis Zones and Sub-Zones

The site occurs in Conservation Analysis Zone(s) (see HCP/NCCP Chapter 5, Figure 5-1):

- 1 2 3 4 5 6

Contribution to Acquisition Analysis Zone Requirements under Minimum Urban Development Area Scenario

<i>Sub-Zone Requirement</i>	<i>Total Requirement (acres)</i>	<i>Contribution by this Acquisition (acres)</i>	<i>Percentage of Requirement Met by Acquisition</i>
Acquire annual grassland in Subzone 2b	450	1.5	0.33%

Contribution to Overall Terrestrial Land Cover Acquisition Requirements under Maximum Urban Development Area Scenario

<i>Land-Cover Requirement</i>	<i>Total Requirement (acres)</i>	<i>Contribution by this Acquisition (acres)</i>	<i>Percentage of Requirement Met by Acquisition</i>
Preserve-wide Annual Grassland	16,500	1.5	0.00%
Preserve-wide Oak Woodland	400	0.15	0.00%

V. Site Conformance with Preserve Design Principles

The following is a subset¹ of conservation biology principles that guide the design of HCP/NCCP Preserve System. This section briefly describes (one paragraph) how design principles are addressed on site or how acquisition of this site could contribute to the Preserve System given the landscape context described in Section I. Not all design principles may be applicable or be evaluated at this time.

- **Size:** site has potential to contribute habitat for covered species and/or is large enough to maximize protection of species sensitive to disturbances from adjacent land use.
- **Linkage to other preserves:** site provides links to existing and proposed open spaces, parks, etc. Small and isolated preserves are necessary to protect isolated features or populations with high biological importance (e.g., covered plant species populations, unique or especially diverse land cover types such as alkali wetlands).
- **Buffers urban impacts:** site includes buffer land within its boundaries that could minimize indirect effects from urban development.
- **Minimizes edge effects:** site shares a minimum amount of edge (i.e., should have the greatest possible area-to-perimeter ratio) with non-preserve land, especially urban development. Preserves with low area-to-perimeter ratios may be appropriate to protect linear features with high biological value, such as streams, riparian woodland, valley bottoms, or ridgelines essential to wildlife movement.

¹ The design principles of high-quality communities and full ecological diversity within communities were excluded from the list due to the need for field verification by a qualified biologist and/or botanist.

- **Fully represents environmental gradients:** includes or connects to open space/parks with a range of environmental gradients, such as topography, elevation, soil types, geologic substrates, slopes, and aspects.
- **Watershed protection:** site contributes to the protection of watersheds, subwatersheds, and headwater streams that are not already in protected status.
- **Management considerations:** desired management treatments such as livestock grazing, prescribed burning, exotic species control, and restoration should be feasible on site.

Though small compared to most Preserve System acquisitions (~2.02 acres), the property is surrounded by protected natural habitat and has the potential to contribute habitat for covered species. Given the surrounding land ownership and uses, species disturbance from the surrounding neighboring land will be limited. The Property is completely surrounded by EBRPD park land (currently in land bank status), acquired in partnership with the Conservancy. The Property provides an opportunity to remove an in-holding in an area otherwise dominated by protected natural lands, extinguish the roadway easement to the subject property, as well as an opportunity to further enhance connectivity among preserved lands within and outside of the inventory area. Acquisition of this property ultimately eliminates the potential for increased impacts on resources on and surrounding the property, if the property were to be sold for use of the communications facility, and therefore would be accessed more frequently. The funding to be provided by the Conservancy requires acquired lands to be preserved and managed for maximum habitat value in accordance with the ECCC HCP/NCCP, and therefore, the highest priority for the property would be to restore the natural habitat and integrity of the wildlife corridor running from Mount Diablo State Park through Clayton Ranch and Black Diamond Mines Regional Preserves by removing the improvements. Removal of the improvements would also eliminate associated security or attractive nuisance issues within the park. EBRPD staff will need to further evaluate options as part of their Acquisition Evaluation process.

BUILT FEATURES AND SITE CONSTRAINTS

I. Describe evidence in the field of current and past land uses on the site (e.g., grazing; grading, earthwork, and construction; infrastructure; industry; etc.) and locate on the aerial:

The Property is currently in use as an abandoned microwave communications facility. Local zoning is A-2 (General Agricultural District) with a General Plan designation of AL (Agricultural Lands). The concrete structure was constructed in 1951.

II. Describe the type and quantity of structures and impervious surfaces on the Property and map on an aerial. This includes houses, barns, sheds, roads, etc:

Improvements on the Property include a 3,365 sq. ft. one-story concrete building, steel tower, and an above-ground fuel storage tank, and asphalt paving for the driveway and area surrounding the building.

III. Map any ruderal areas (defined as disturbed areas characterized by sparse nonnative, typically weedy vegetation) and describe their condition:

Land cover mapping conducted for the site (Figure 4 in Appendix B) does not include any ruderal land cover.

IV. Discuss any management constraints that you have observed on this site (e.g., interior access roads, gates, fencing, boundary/edge issues, etc.):

No constraints. The property is surrounded on all sides by EBRPD park land.

V. Describe land uses adjacent to the Property that could influence the site's potential as a preserve (e.g., influence the ability to manage or restore the site):

Adjacent lands consist of rural open space and EBRPD preserves. The property will be buffered from urban uses by other Preserve System lands.

VI. Describe any populations of invasive plant species on site and document on an aerial photo:

None to report at this time. Field work to inventory the natural resources of the site will be performed following acquisition.

VII. Discuss any other possible constraints on this site as a potential preserve (water availability, habitat degradation, etc.)

None to report at this time. Field work to inventory the natural resources of the site will be performed following acquisition and may identify management needs.

Appendices:

- **Appendix A: Photos**
- **Appendix B: Figures**

Appendix A



Photo 1:

Looking west at the property.



Photo 2:

View looking south toward Clayton Ranch.



Photo 3:

Concrete bunker at the center of the property. The steel tower is located behind the structure.



Photo 4:

View looking eastward toward the property, and the surrounding Barron property.

Figure 1: Clayton Radio LLC Parcel - Regional Context

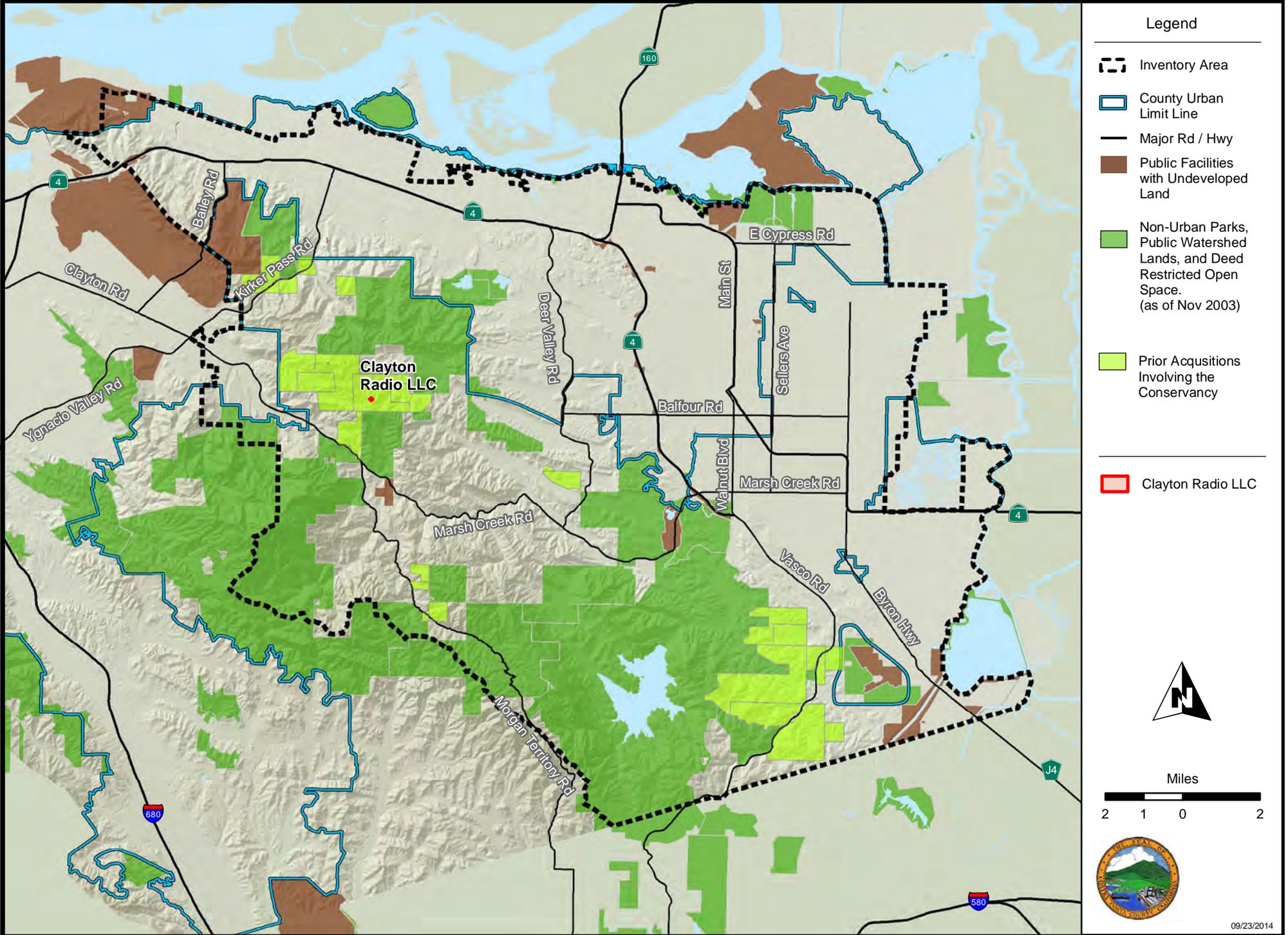


Figure 2: Clayton Radio LLC Parcel - Consistency with HCP/NCCP Acquisition Priorities Under Maximum Urban Development Area Scenarios **Agenda Item #11b**

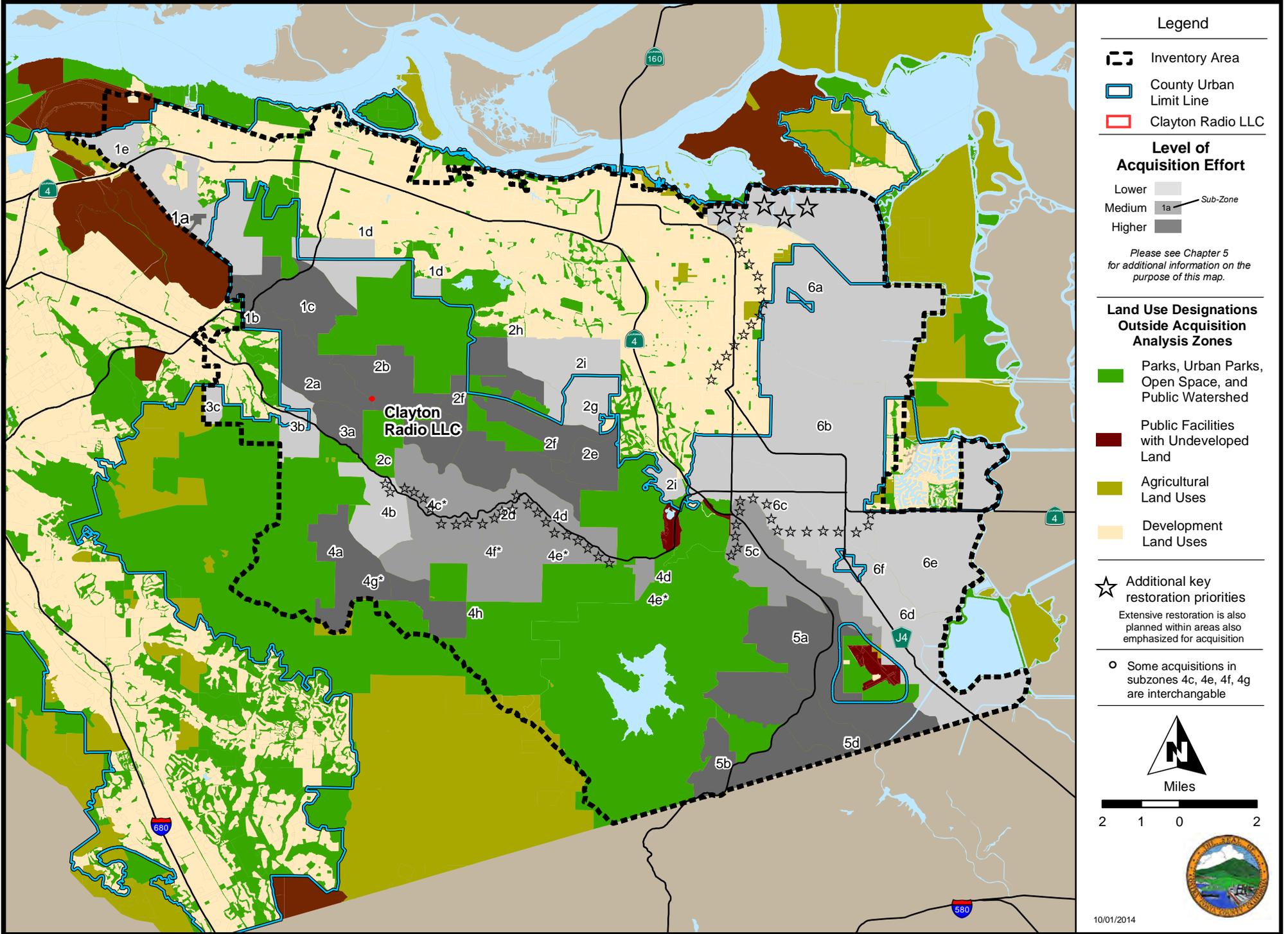


Figure 3: Clayton Radio LLC parcel - 2011 Orthophotography



Legend

 Clayton Radio LLC



Feet

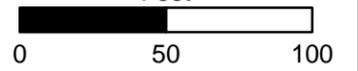
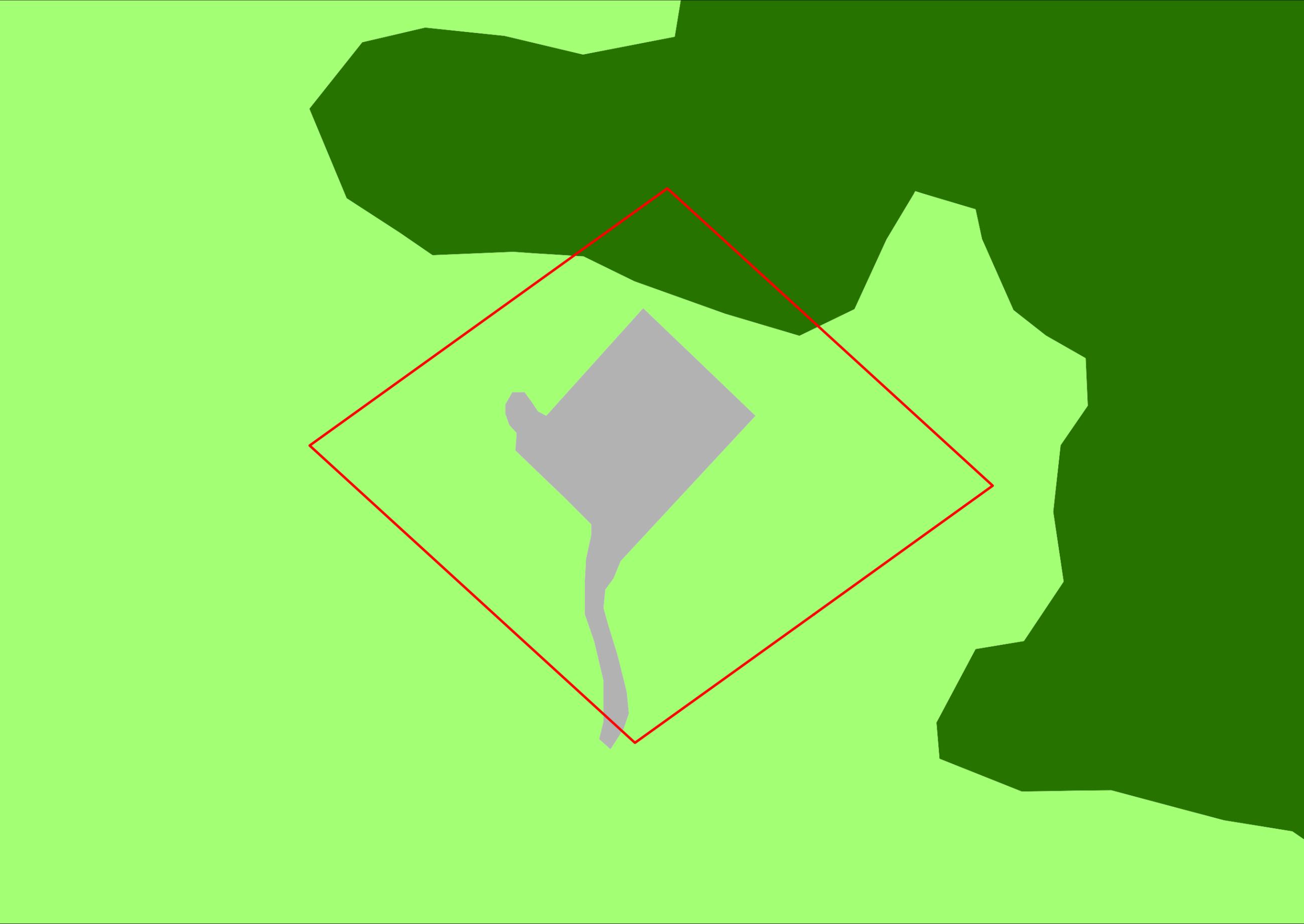


Figure 4. Clayton Radio LLC parcel - Terrestrial and Aquatic Land Covers Types



Legend

- Parcel Under Study (2.02 acres)
- Creek or Drainage (0 feet)
- alkali grassland
- alkali wetland
- aquatic
- aqueduct
- chaparral
- cropland
- grassland (1.5 ac)
- landfill
- non-native woodland
- oak savanna
- oak woodland (0.15 ac)
- orchard
- pasture
- permanent wetland
- pond
- riparian
- rock outcrops
- ruderal
- seasonal wetland
- slough/channel
- turf
- urban (0.37 ac)
- vineyard
- wetland
- wind turbines

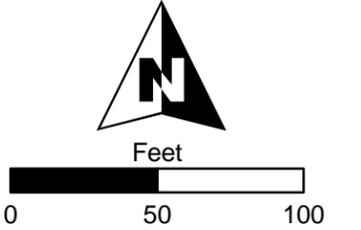
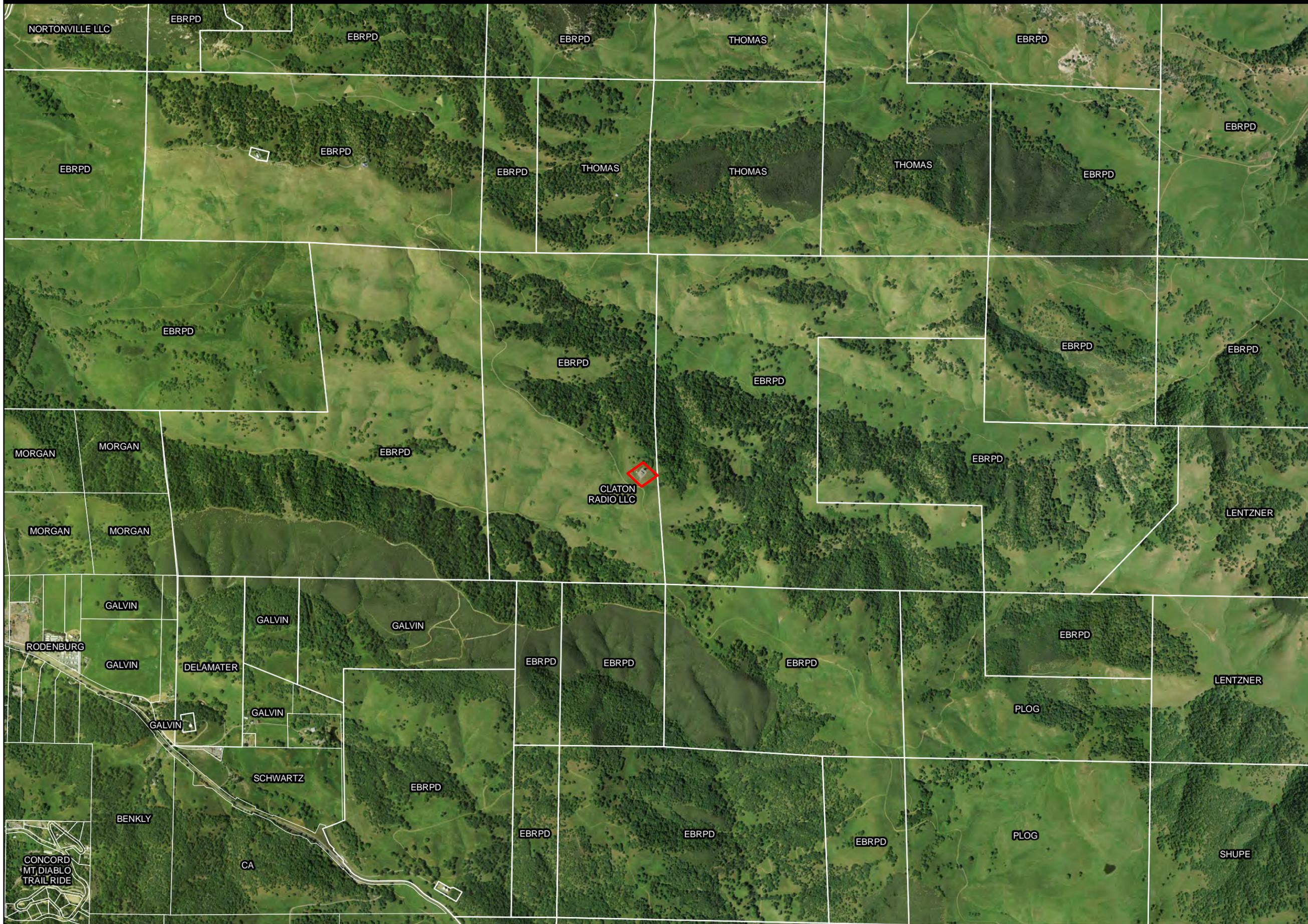


Figure 5: Clayton Radio LLC parcel - Neighborhood



Legend

 Parcels Under Study


Feet

0 1,000 2,000



10/01/2014

**FUNDING AGREEMENT
BY AND BETWEEN
EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY AND
EAST BAY REGIONAL PARK DISTRICT
(Insert Property Name)**

This **FUNDING AGREEMENT** (the “**Agreement**”), dated [redacted], 201[redacted], is by and between **EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY**, a joint exercise of powers authority (“**Conservancy**”), and **EAST BAY REGIONAL PARK DISTRICT**, a California special district (“**District**”). Hereafter, Conservancy and District are collectively referred to herein as the “**Parties.**”

Recitals

A. Conservancy is implementing the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (“**HCP/NCCP**”), dated October 2006, prepared by the East Contra Costa Habitat Conservation Planning Association and approved by the United States Fish and Wildlife Service (“**USFWS**”) under Section 10 of the Federal Endangered Species Act of 1973, as amended (16 U.S.C. Section 1531 *et seq.*), and by California Department of Fish and Wildlife (“**CDFW**”) under California Fish and Game Code Section 2835.

B. The HCP/NCCP provides a framework to protect natural resources in eastern Contra Costa County, to comprehensively conserve species, wetlands, and ecosystems, and to recover endangered species through creation of a preserve network.

C. District is a regional park district which owns and manages lands in Alameda and Contra Costa Counties. District is working cooperatively with the Conservancy to implement the HCP/NCCP as is appropriate and consistent with District’s mission.

D. District and [redacted] (“**Seller**”) have entered into that certain Option Agreement, effective as of [redacted], 201[redacted], (the “**Option Agreement**”), providing for District’s acquisition of that certain real property comprised of approximately [redacted] acres located in Contra Costa County, California that is legally described in **Exhibit A** attached hereto (the “**Property**”). The purchase price for the Property under the Option Agreement is [redacted] Dollars (\$[redacted]) (the “**Purchase Price**”).

E. The Property possesses significant ecological and habitat values that benefit endangered, threatened, and other species, including without limitation, habitat suitable for many or all of the following Covered Species (as defined in the HCP/NCCP) (collectively, the “**Property’s Covered Species**”): Townsend’s western big-eared bat (*Corynorhinus townsendii townsendii*), San Joaquin kit fox (*Vulpes macrotus mutica*), tricolored blackbird (*Agelaius tricolor*), golden eagle (*Aquila chrysaetos*), western

burrowing owl (*Athene cunicularia hypugea*), Swainson's Hawk (*Buteo swainsoni*), silvery legless lizard (*Anniella pulchra pulchra*), Alameda whipsnake (*Masticophis lateralis euryxanthus*), Giant garter snake (*Thamnopsis gigas*), western pond turtle (*Clemmys marmorata*), California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana aurora draytonii*), foothill yellow-legged frog (*Rana boylei*), longhorn fairy shrimp (*Brachinecta longiantenna*), vernal pool fairy shrimp (*Brachinecta lynchi*), midvalley fairy shrimp (*Brachinecta mesovallensis*), vernal pool tadpole shrimp (*Lepidurus packardi*), Mount Diablo manzanita (*Arctostaphylos auriculata*), brittlescale (*Atriplex depressa*), San Joaquin spearscale (*Atriplex joanquiniana*), big tarplant (*Blepharizonia plumosa*), Mount Diablo fairy lantern (*Calochortus pulchellus*), recurved larkspur (*Delphinium recurvatum*), round-leaved filaree (*Erodium macrophyllum*), Diablo helianthella (*Helianthella castanea*), Brewer's dwarf flax (*Hesperolinon breweri*), showy madia (*Madia radiata*), and adobe navarretia (*Navarretia nigelliformis ssp. nigelliformis*).

F. Conservancy desires to provide to District, directly through the escrow set up for this purchase and sale between District and Seller, the funds to pay for [Insert Percentage (spelled out)] percent ([Insert Numerical Percentage]%) of the Purchase Price, for the purpose of advancing the requirements and goals of the HCP/NCCP through funding District's protection of the Property's Covered Species, subject to the terms and conditions set forth below in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties hereby agree as follows:

1. Conservancy Funding. Subject to the terms, conditions and procedures set forth below, Conservancy shall provide to District the amount equal to [Insert Amount of Conservancy Funding (spelled out)] Dollars (\$[Insert Numerical Amount]) by [Insert Date], 201[] (the "**Conservancy Funding**"), which shall be used solely to fund the Purchase Price due Seller under the Option Agreement.

2. Purpose of Conservancy Funding. District covenants and agrees that if Conservancy provides the Conservancy Funding under this Agreement for District to acquire the Property, District will own, manage and use the Property for the purpose of protecting in perpetuity the Property's Covered Species in accordance with the HCP/NCCP and the other terms and conditions set forth in this Agreement (the "**Funding Purpose**").

3. Conditions Precedent

(a) **Conditions Precedent to Deposit of Conservancy Funding.** Conservancy's obligation to deposit the Conservancy Funding into the Escrow (as defined below) shall be subject to the satisfaction, or waiver by Conservancy in writing, of each of the following conditions precedent on or prior to the date escrow is to close under the Agreement (collectively, the "**Conservancy Funding Conditions Precedent**"):

(i) **Property Documents.** District shall have delivered to Conservancy, and Conservancy shall have reviewed and approved, a full and complete copy of all documents and reports obtained by District from Seller or prepared by or at the direction of District, that relate to the ownership, development, management, operation and/or use of the Property and/or any of the transactions contemplated by this Agreement, including, without limitation, the following (collectively, the “**Property Information**”):

(A) The Option Agreement, including any and all amendments and modifications thereto entered into by Seller and District; provided, however, Conservancy has previously reviewed and approved the Option Agreement;

(B) A current preliminary title report for the Property, together with a copy of each recorded document referenced in such report;

(C) A copy of each lease, contract, permit, license or other document or agreement that District has been provided evidencing any unrecorded third party rights to the Property which is currently in effect;

(D) A current appraisal of the Property, including any and all updates thereto; provided, however, that Conservancy has previously reviewed and approved the appraisal of the Property prepared by [Insert Name of Appraiser], [Insert Address of Appraiser], dated [redacted], 201[redacted];

(E) A current Phase 1 environmental site assessment for the Property; provided, that Conservancy has previously reviewed and approved Phase 1 for the Property prepared by [Insert Name of Company] dated [redacted], 201[redacted];

(F) A copy of all documentation in District’s possession or control relating to the water rights associated with or appurtenant to the Property; and

(G) A copy of any study, report or other written information or documents in District’s possession or control relating to the Property and the transactions contemplated by this Agreement or the Option Agreement, including, without limitation, maps, surveys, appraisals, environmental, soils and geotechnical reports, engineering reports, and mineral rights.

(ii) **No Defaults under the Option Agreement.** Neither District nor Seller shall be in default under any term, condition or

provision of the Option Agreement, and the Option Agreement shall remain in full force and effect.

(iii) **Additional Funding.** District shall have deposited, or caused to be deposited into the Escrow sufficient funds to pay all title, escrow and closing fees, costs, and expenses allocated to District in the Option Agreement or otherwise payable by District.

- (A) [Insert Option Payment Amount (spelled out)]s (\$[Insert Numerical Amount]) as the option payment (the “**Option Payment**”);
- (B) [Insert Payment Amount (spelled out)] Dollars (\$[Insert Numerical Amount]), which is District’s share of the Purchase Price, less the Option Payment; and
- (C) Sufficient funds to pay all title, escrow and closing fees, costs, and expenses allocated to District in the Option Agreement or otherwise payable by District.

(iv) **Approval of Closing Documents.** Conservancy shall have reviewed and approved the final form of all closing documents relating to District’s purchase of the Property from Seller under the Option Agreement including, without limitation, the following (collectively, the “**Closing Documents**”), each signed by all signatories thereto:

- (A) Grant Deed transferring the fee interest in the Property from Seller to District (the “**Grant Deed**”);
- (B) Escrow Instructions of Seller; and
- (C) Escrow Instructions of District.

(v) **Delivery of Closing Documents into Escrow.** All of the Closing Documents shall have been delivered into the Escrow with instructions from District to close the transactions contemplated by the Option Agreement and this Agreement in a manner that is not inconsistent with the separate escrow instructions delivered to Escrow Holder by Conservancy.

(vi) **Restrictive Covenant.** District shall be irrevocably committed to record in the Official Records of Contra Costa County (“**Official Records**”), concurrent with, but immediately following, recordation of the Grant Deed, a restrictive covenant covering the entire Property that is designed to provide for the perpetual protection of the Property’s Covered Species and otherwise comply with the requirements

of the HCP/NCCP and are in form and substance acceptable to Conservancy, USFWS and CDFW and sufficient to permit inclusion of the Property into the Preserve System under the HCP/NCCP (“**Restrictive Covenant**”); provided, however, if USFWS or CDFW have not approved the Restrictive Covenant prior to the Closing (as defined below), District shall record the Restrictive Covenant in the Official Records, as approved by USFWS and CDFW, as soon as reasonably possible following such approval. The Restrictive Covenant shall permit improvements to Deer Valley Road, as identified as a covered activity in the HCP/NCCP, and District public access improvements and recreational uses, consistent with the Preserve Management Plan (as defined below) and Section 6 below. [Insert Following if Applicable] Conservancy and District acknowledge that the proposed improvements to _____ Road along the east boundary of the property may require Contra Costa County (the “**County**”) to expand its right of way. Conservancy and District anticipate the County will request to purchase a narrow portion of the Property along its northern edge for this purpose. Conservancy and District acknowledge that one purpose of the right of way purchase may be to enable the County to construct the improvements while minimizing the use of retaining walls, which may be unsightly and may hinder wildlife movement. Conservancy and District acknowledge that sale of any portion of the Property will be subject to necessary approval of WCB, as that term is defined below. Attached hereto as **Exhibit B** is a draft of the Restrictive Covenant which is in a form and substance agreeable to Conservancy and District and which agreed upon draft shall be submitted to USFWS and CDFW for review and approval. Conservancy and District shall use their respective reasonable best efforts to negotiate with USFWS and CDFW a mutually acceptable final form of the Restrictive Covenant.

(vii) **Baseline Conditions Report.** Conservancy and District shall have reviewed and approved a final baseline conditions report for the Property, the initial draft of which shall have been prepared by or at the direction of Conservancy (“**Baseline Report**”), unless the Parties have agreed to waive preparation of the Baseline Report. The Baseline Report shall provide detailed information on the condition of the Property as of the date District acquires the Property from Seller. The Baseline Report shall be tailored to the terms and conditions of the Restrictive Covenant and the conservation values the Restrictive Covenant seeks to protect. The Baseline Report must be reviewed, approved, signed and certified by District on or before the Closing. District’s certification of the Baseline Report shall confirm that to the District’s best knowledge after diligent review of the final Baseline Report and inspection of the Property, the Baseline Report is a current and accurate description and representation of the physical condition and conservation values of the Property as of the Closing.

(viii) **Recordation of Closing Documents.** The Grant Deed and Restrictive Covenant shall have been delivered into the Escrow with District’s irrevocable instructions to record such documents in the Official Records at the Closing; provided, however, if USFWS or CDFW have not approved the Restrictive Covenant prior to the Closing (as defined below), District shall record the Restrictive Covenant in the Official Records, as approved by USFWS and CDFW, as soon as reasonably possible following such approval.

(ix) **Grant Funding Requirements.** District understands that Conservancy intends to use federal and state grant funds made available to Conservancy through the California Wildlife Conservation Board (“WCB”) [Insert Any Additional Grant Funders as Applicable and identify collectively as “Grant Funders”] to fund all of the Conservancy Funding. District further understands that Conservancy and District have entered into grant agreements with Grant Funders that impose certain obligations on Conservancy and District respecting the use of such funds for this project. District will comply with all grant requirements imposed by Grant Funders in connection with such funding, so long as such requirements are not inconsistent with this Agreement, and will execute and deliver all documents as reasonably required by Grant Funders for such funding. District understands that Conservancy shall be unable to approve the Property Information until Grant Funders approve the Property Information.

4. District’s Covenants. In consideration of Conservancy’s disbursement of the Conservancy Funding in accordance with **Section 1** above, District hereby covenants and agrees as follows:

(a) **Notice of Unrecorded Agreement.** District shall record or cause to be recorded, concurrent with the Closing, a Notice of Unrecorded Agreement (“**Notice of Unrecorded Agreement**”), incorporating by reference this Agreement and giving public notice that District received funds under this Agreement in order to assist District in acquiring the Property and that, in consideration of receipt of the Conservancy Funding hereunder, District has agreed to the terms of this Agreement. The Notice of Unrecorded Agreement shall be substantially in the form of **Exhibit C** attached hereto and incorporated herein by reference.

(b) **Delivery of Closing Documents.** District shall provide to Conservancy, promptly following the Closing, a conformed copy of the recorded Grant Deed, Restrictive Covenant and Notice of Unrecorded Agreement, with all recording information identified thereon, as well as a copy of the final closing or settlement statement and the title insurance policy insuring District as the fee owner of the Property. District shall also provide Conservancy with copies of such other documents related to the Closing as requested by Conservancy.

(c) **Amendment or Termination of the Restrictive Covenant.** District shall not amend or modify the Restrictive Covenant without first obtaining Conservancy’s written approval to such amendment or modification. District shall not terminate the Restrictive Covenant without first obtaining Conservancy’s written approval.

(d) **Use of Property.** Following acquisition of the Property, District shall use, operate, manage and maintain the Property in perpetuity in a manner that complies with the Restrictive Covenant and this Agreement, and fulfills the Funding Purpose set forth in **Section 2** above.

(e) **Management Plan and Management Costs.** Conservancy and District shall jointly prepare a management plan for the Property (“**Preserve Management Plan**”) that shall be consistent with the HCP/NCCP and shall be completed as soon as reasonably possible but no later than [REDACTED], 201[REDACTED] unless the Conservancy and District are able to close escrow on the Property prior to [REDACTED], 201[REDACTED], in which case the Preserve Management Plan will be completed no later than one year following the date of the close of escrow. Conservancy and District may extend this deadline by mutual agreement. Conservancy shall prepare and provide to District an initial draft of the Preserve Management Plan. District shall promptly review and comment on the initial draft Preserve Management Plan. Conservancy and District shall work together in good faith to produce a final Preserve Management Plan that is mutually acceptable to Conservancy and District. The Preserve Management Plan will include a monitoring plan for the Property and an estimated budget of all management and monitoring costs associated with implementation of the Preserve Management Plan (“**Management Costs**”). Conservancy and District intend to allocate Management Costs between the Parties consistent with the general principle such that Conservancy will pay for those Management Costs relating to management and monitoring of the Property’s Covered Species and District will pay for those Management Costs relating to public access and public use of the Property. On or before final approval of the Preserve Management Plan, Conservancy and District will enter into a written agreement confirming the Parties’ respective obligations to pay Management Costs, including the funding mechanisms for such payment which may be in the form of annual payments or an endowment. Conservancy shall pay all costs associated with preparation of the Preserve Management Plan. Following completion of the Preserve Management Plan, District shall use and manage the Property in accordance with the Preserve Management Plan.

(f) **Lease Revenues. [Include this Section if Property has Communication Tower, Wind, or Residential Lease Revenue]**

(i) **Leases.** The District will acquire the Property subject to those leases referenced in the Option Agreement (collectively, the “**Leases**”). Following the District’s acquisition of the Property, the

District will enter into new leases with the existing tenants and be entitled to receive all the revenues due the lessor under the Leases (the “**Lease Revenues**”).

(ii) **Allocation of Lease Revenues.** All Lease Revenues received by District under the Leases shall be used by District as follows:

(A) To pay management costs associated with the management of any real property that is (i) identified in those certain grant agreements, Grant No. [Insert Grant Number], Grant Title: [Insert Grant Title], between USFWS and CDFW (the “**Federal Grant Agreements**”) and (ii) included in the ECCC HCP/NCCP preserve lands (collectively, the “**Lease-Funded Management Costs**”), which Lease-Funded Management Costs may include, without limitation, any combination of the following costs:

1. Personnel performing day to day oversight, management and protection of such properties (e.g. the cost of rangers, police, and fire personnel);
2. Fence repair, replacement and construction;
3. Maintaining roads and access facilities;
4. Control of invasive or exotic species;
5. Improvement of livestock watering facilities to prevent degradation of natural waters and wetlands;
6. Removal of debris & unnecessary structures, including buildings & unnecessary roads;
7. Other habitat enhancement activities;
8. Monitoring of habitat conditions and of HCP/NCCP covered species; and
9. Adaptive management activities guided by monitoring.

The Conservancy and District recognize that the Property (which includes District’s right to receive the Lease Revenues) was purchased with a combination of funds provided by the Conservancy and District; and/or

(B) To fund a non-wasting endowment (the “**Endowment**”) to provide funding for those Lease-Funded Management Costs incurred following the date the Leases are terminated; the Parties intend that District shall invest an agreed-upon amount of the Lease Revenues to generate annual interest sufficient to pay that portion of the Lease-Funded Management Costs covered by Lease Revenues according to a schedule agreed

to by Conservancy and District, pursuant to **Section 4(f)(ii)(A)** above (the “**Endowment Goal**”).

(iii) **Grazing Lease Revenues.** The Parties understand that, at some point in the future, District may enter into a grazing lease for the Property. The lease revenues received by District under such grazing lease will not be subject to the allocation of lease revenues provisions of **Section 4(f)(ii)** above and such grazing lease revenues may be spent in District’s sole discretion.

(iv) **Annual Budget and Annual Reporting.** On or before the beginning of each calendar year, District and Conservancy shall jointly prepare an annual written budget setting forth the total amount of Lease Revenues projected for collection by the District during the upcoming year, together with District’s proposed expenditures consistent with **Section 4(f)(ii)** above (the “**Annual Budget**”). Within thirty (60) days following the end of each calendar year, District shall deliver to Conservancy an accounting for the immediately preceding calendar year (the “**Annual Accounting**”) which shall set forth (A) the total amount of Lease Revenues collected during such calendar year; (B) how such Lease Revenues were actually expended by District during such year, and (C) the total amount of the Endowment, together with the projected amount of the Endowment Goal. The requirements set forth in this section may be modified and expressly superseded in the funding agreement contemplated under **Section 4(e)** above.

(g) **Future Wetland Restoration Projects.** Following District’s execution of this Agreement, Conservancy shall have the exclusive right to work with District to conduct, or cause to be conducted, wetland and/or habitat creation, restoration, enhancement, and/or development improvements, projects or activities on the Property to satisfy the requirements of the HCP/NCCP (“**Habitat Activities**”). Any Habitat Activities conducted, or caused to be conducted, on the Property by Conservancy shall (i) be paid for by Conservancy, provided that it is expected the District may provide some staff resources; (ii) require District’s prior reasonable approval with respect to design, location and phasing, and (iii) be conducted in accordance with a separate written agreement entered into by Conservancy and District providing for such projects, if and to the extent either Party to this agreement requires such agreements. The written agreement shall address Conservancy’s reimbursement for District’s costs and staff time where appropriate, in light of the type of project and the staff resources required of District. District understands that Conservancy may encounter urgent timing constraints to complete some Habitat Activities in order to comply with the HCP/NCCP. If Conservancy reasonably determines that District will not be able to meet such deadlines, Conservancy and District shall exercise their respective reasonable good faith efforts to enter into a written agreement on reasonable terms and conditions for Conservancy to step in and manage construction of the Habitat

Activities through timely completion in a manner substantially consistent with the District's previous approvals of such activities and the other written agreements entered into by the Parties respecting the Habitat Activities. Neither District nor any other third party shall conduct any Habitat Activities on the Property unless such party first obtains Conservancy's written reasonable approval of such Habitat Activities. Should District be required to mitigate project impacts for any portion of its project relating to public access/use of the Property, District shall be allowed to mitigate on the Property so long as said mitigation does not conflict or interfere with Conservancy's existing or planned Habitat Activities projects.

(h) **Access to the Property.** From and after the Effective Date and through the Closing, District shall use its reasonable best efforts to coordinate with Seller to provide Conservancy, and Conservancy's employees, agents and consultants, WCB and WCB's employees, agents and consultants access at reasonable times upon reasonable prior notice to the Property to conduct appropriate due diligence investigations and to conduct Habitat Activities. District shall also make available District's employees and agents to Conservancy, WCB and their respective employees, agents, and consultants to provide additional explanatory information and answer questions respecting the Property and to otherwise assist in Conservancy's and WCB's due diligence investigation of the Property. Following District's acquisition of the Property, District shall provide access to the Property to Conservancy and Conservancy's employees, agents and consultants, at reasonable times upon reasonable prior notice, to monitor District's compliance with the terms of this Agreement and to exercise any of Conservancy's rights hereunder.

(i) **Transfer.** District shall not assign, sell, transfer, exchange or otherwise convey all or any portion of the Property without obtaining the prior written approval of Conservancy, which approval shall not be unreasonably denied as long as the Property shall continue to be held and used only in a manner consistent with this Agreement, including the Funding Purpose.

(j) **Security.** District shall not use all or any portion of the Property as security for any debt without obtaining the prior written approval of Conservancy.

5. Funding Procedure

(a) **Escrow.** Conservancy shall deposit the Conservancy Funding directly into the escrow (the "**Escrow**") that has been opened to consummate District's purchase of the Property in accordance with the Option Agreement, at [Insert Name of Title Company], [Insert Title Company Address], Attention: [Insert Name of Escrow Officer], Escrow Number [Insert Escrow Number] ("**Escrow Company**"). The Conservancy Funding shall be released from the Escrow to Seller to pay the Purchase Price upon confirmation that the Grant Deed, Restrictive Covenant and Notice of Unrecorded Agreement have been recorded in

the Official Records (the “**Closing**”) provided, however, if USFWS or CDFW have not approved the Restrictive Covenant prior to the Closing (as defined below), District shall record the Restrictive Covenant in the Official Records, as approved by USFWS and CDFW, as soon as reasonably possible following such approval. The Closing shall occur, if at all, on [REDACTED], 201[REDACTED] (the “**Closing Date**”), unless otherwise mutually agreed by Conservancy and District in writing. If the Closing has not occurred on or before the Closing Date and Conservancy is not in default under this Agreement, Conservancy shall be entitled to terminate this Agreement by delivering written notice of termination to District, upon which the Parties shall have no further rights or obligations under this Agreement, including without limitation the obligation to fund the Conservancy Funding.

(b) **Closing and Escrow Costs and Expenses.** Conservancy shall not be responsible for paying any closing, escrow or title insurance costs, fees or expenses due in connection with District’s acquisition of the Property.

6. Public Access. Conservancy understands and acknowledges that property located in the vicinity of the Property has been identified in District’s current Master Plan as a potential regional park and that District’s mission incorporates both resource conservation and public access goals. Conservancy further recognizes that the HCP/NCCP permits public access and recreational uses on Preserves (as defined in the HCP/NCCP) provided such public access and recreational uses are conducted in a manner consistent with the species conservation goals and recreation provisions contained therein. Conservancy acknowledges that one of the reasons that the District is entering into this Agreement and acquiring the Property is specifically to provide public access and recreational uses on the Property. Consequently, Conservancy and District shall work collaboratively to identify and include in the Preserve Management Plan appropriate public access facilities and recreational uses for the Property that are consistent with protection of the conservation values of the Property and the HCP/NCCP and which will be developed jointly by Conservancy and District. All proposed public uses and recreational facilities for the Property shall be sited on the Property in locations that are consistent with the protection of the Property’s conservation values and will be subject to the prior approval of Conservancy, which approval shall not be withheld provided such uses and facilities do not impair the Property’s conservation values and are otherwise consistent with the HCP/NCCP.

7. Cooperation. From and after the Effective Date, Conservancy and District shall each use its respective good faith reasonable best efforts to cooperate with the other Party in exercising such Party’s rights under this Agreement, which shall include, without limitation, the Parties’ respective good faith reasonable best efforts to assist in satisfying the Conservancy Funding Conditions Precedent.

8. Default and Remedies.

(a) **Notice of Breach.** In the event of a breach by Conservancy or District of any of the terms, covenants or conditions of this Agreement or any

written agreement entered into by Conservancy or District respecting the allocation of Management Costs as required under **Section 4(e)**, the non-breaching party shall give written notice to the breaching party describing the breach (“**Notice**”), and the breaching party shall have thirty (30) days from the date of the Notice to cure the breach or, if the breach is not curable within such thirty (30) day period, to commence and diligently pursue such cure to completion.

(b) **Remedies.** If the breaching party fails to cure any breach within the cure period provided in **Section 8(a)** above, the breaching party shall be in default under this Agreement (“**Default**”). In the event of a Default under this Agreement, the non-breaching party shall have all remedies available at law or in equity.

(i) **Additional Conservancy Remedies.** In addition to the remedies available under **Section 8(b)** above, if the non-breaching party is Conservancy and the breaching party is District and Conservancy is not then in default under this Agreement, Conservancy may require District to convey its interest in the Property to Conservancy or to another public entity or nonprofit organization that is willing and financially able to assume all of the obligations and responsibilities of District hereunder, subject to receipt of any approvals required under any public funding grant agreements for the Property.

(ii) **Additional District Remedies.** In addition to the remedies available under **Section 8(b)** above, if the non-breaching party is District and the breaching party is Conservancy and District is not in default under this Agreement, District may require either Conservancy or another entity acceptable to Conservancy to accept a conveyance of District’s interest in the Property subject to receipt of any approvals required under any public funding grant agreements for the Property. Upon such conveyance, Conservancy or the other entity will assume any and all terms, covenants and conditions of the Agreement that were imposed upon District by the Agreement or any related documents. Upon transfer of the Property to Conservancy or another entity acceptable to Conservancy under this **Section 8(b)(ii)**, this Agreement shall terminate and neither party hereto shall have any further obligations hereunder.

9. Injury or Destruction to a Habitat Activities Project. District shall not be responsible for the unauthorized acts of third parties, and natural disasters such as fire, floods, storms, earthquakes or landslides and shall have no obligation to restore any Habitat Activities projects injured or destroyed due to such or similar causes; provided, that nothing in this section shall prevent Conservancy and District from reaching separate agreement to take such additional steps to restore such injury or destruction to the Habitat Activities projects that are mutually acceptable to Conservancy and District in each Party’s sole and absolute discretion.

10. Public Announcements. Other than when otherwise required by law, District shall consult with Conservancy prior to any public announcement or press release describing the District’s acquisition of the Property and specifically the Conservancy funding activities associated with the acquisition of the Property.

11. Representations and Warranties. The Parties hereby represent and warrant to each other that the execution, delivery and performance by such Party of this Agreement together with the transactions contemplated thereby have been duly authorized and approved by such Party. Upon execution and delivery by each Party, this Agreement shall constitute the legal, valid and binding obligations of such Party under applicable law, enforceable in accordance with their respective terms, subject only to bankruptcy, insolvency, reorganization, moratorium or similar laws at the time in effect affecting the enforceability of the rights of creditors generally and to the discretion of courts of applicable jurisdiction to enforce equitable remedies including, without limitation, specific performance and injunctive relief.

12. Notices. Any notice, demand, request, consent or approval that either Party desires or is required to give to the other Party under this Agreement shall be in writing and shall be sent to the following relevant address:

If to District:

East Bay Regional Park District
2950 Peralta Oaks Ct.
Oakland, CA 94605
Attention: Land Acquisition Manager
Facsimile: (510) 569-1417

If to Conservancy:

East Contra Costa County Habitat
Conservancy
30 Muir Road
Martinez, CA 94553
Attention: Executive Director
Facsimile: (925) 674-7250

Notices may be sent by any of the following means: (i) by delivery in person, (ii) by certified U.S. mail, return receipt requested, postage prepaid, (iii) by Federal Express or other reputable “overnight” delivery service, provided that next-business-day delivery is requested by the sender, or (iv) by facsimile transmission; provided that a hard copy of such notice shall have been deposited into the U.S. mail to the recipient on the same day as transmission. Notices delivered in person shall be deemed effective immediately upon receipt (or refusal of delivery or receipt). Notices sent by certified mail shall be deemed given on the date deposited with the U.S. Postal Service. Notices sent by Federal Express or other reputable “overnight” delivery service shall be deemed given on the date deposited with the delivery service. Notices sent by facsimile transmission shall be effective on the date of successful transmission. Either Party may, from time to time, by written notice to the other, designate a different address which shall be substituted for the one above specified.

13. No Partnership. Nothing in this Agreement shall be deemed to create a partnership between any combination of the parties hereto.

14. Miscellaneous Provisions.

(a) **Effective Date.** The Parties' rights and obligations set forth in this Agreement shall be effective (the "**Effective Date**") the first date upon which both Parties shall have executed this Agreement.

(b) **Counterparts.** This Agreement may be executed in one or more identical counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

(c) **Successors and Assigns.** This Agreement may not be assigned, in full or in part, by either Party without the prior written consent of the other Party. Subject to the foregoing provision, this Agreement shall inure to the benefit of and be binding upon the Parties to this Agreement and their respective successors and assigns.

(d) **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to the agreements set forth herein and supersedes any and all prior written and oral understandings relating thereto. Any representations or modifications concerning this Agreement shall be of no force or effect, excepting a subsequent modification in writing signed by the Party to be charged.

(e) **Governing Law.** This Agreement shall be governed by, construed in accordance with, and interpreted under, the internal laws of the State of California.

(f) **Drafting.** Each of the Parties hereto acknowledge that such Party and its counsel have reviewed, revised (where it was deemed appropriate), and approved this Agreement, and that no rule of construction that ambiguities are to be resolved against the drafting Party shall be employed in the interpretation of this Agreement.

(g) **Invalidity.** If any provision of this Agreement or the application thereof to any person(s) or circumstance(s) shall to any extent be held to be invalid, illegal, or unenforceable in any respect by any court of competent jurisdiction, and provided that the essential agreement of the Parties to this Agreement is not materially altered as a result of such holding: (i) neither the remainder of this Agreement nor the application of such provision to any person(s) or circumstance(s), other than those as to whom or which it is held to be invalid or unenforceable, shall be affected thereby; (ii) this Agreement shall be construed as though such invalid, illegal or unenforceable provision had never been contained in this Agreement; and (iii) every provision of this Agreement

shall be valid and enforceable to the fullest extent permitted by law. If any provision is so stricken from this Agreement, the Parties agree to negotiate in good faith any modifications that may be required to effectuate the intent of this Agreement.

(h) **Performance and Waiver.** Time is of the essence in the performance of each of the obligations of the Parties under this Agreement, but no failure of a Party to this Agreement to insist upon the timely performance of any obligation by another Party shall constitute a waiver of the right to require performance of such obligation, or act as a waiver of the right to require the performance of any other obligation of such Party (or any other party).

(i) **Attorneys' Fees.** In the event of any litigation or arbitration between the Parties to this Agreement in connection with the interpretation of this Agreement, or the enforcement of any right or obligation under this Agreement, the Party prevailing in such litigation or arbitration shall be entitled to payment by the other Party of the court costs and attorneys' fees and expenses incurred by the prevailing Party in connection with such litigation or arbitration (whether incurred at the trial, appellate, or administrative level), in such amount as the court or administration body may judge reasonable, all of which may be incorporated into and be a part of any judgment or decision rendered in such litigation or arbitration.

IN WITNESS WHEREOF, the Parties hereby enter into this Agreement as of the Effective Date.

DISTRICT:

EAST BAY REGIONAL PARK DISTRICT, a California special district

Date: _____, 201█

By: _____
Name: Robert E. Doyle
Title: General Manager

CONSERVANCY:

EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY, a joint exercise of powers agency

Date: _____, 201█

By: _____
Name: Abigail Fateman
Title: Interim Executive Director

EXHIBIT A

Legal Description of the Property

EXHIBIT B

Form of Restrictive Covenant

RECORDING REQUESTED BY AND)
 WHEN RECORDED MAIL TO:)
)
 East Bay Regional Park District)
 Land Acquisition Department)
 2950 Peralta Oaks Court)
 Oakland, California 94605)
 Attention: Land Division)

APN

Space Above Line for Recorder's Use Only

Request is made that this document be recorded without fee pursuant to Government Code Section No 27383.

COVENANT TO RESTRICT USE OF PROPERTY

THIS COVENANT AND AGREEMENT has been executed as of [redacted], 2014 in favor of the UNITED STATES DEPARTMENT OF THE INTERIOR, acting by and through the U.S. Fish and Wildlife Service (“USFWS”), and the STATE OF CALIFORNIA, acting by and through its Department of Fish and Wildlife (“DFW”), by the EAST BAY REGIONAL PARK DISTRICT, a California special district (“District”).

RECITALS

- A. District is the sole owner in fee simple of certain real property containing approximately [redacted] acres, located in the County of Contra Costa, State of California, designated Assessor’s Parcel Number(s) [redacted] and more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference (the “Property”).
- B. This Covenant is being executed, delivered, and recorded in the Official Records of Contra Costa County (“Official Records”) to satisfy certain requirements set forth in the following documents (collectively, the “HCP/NCCP Conservation Instruments”):
 - (i) East Contra Costa County Habitat Conservation Plan/ Natural Community Conservation Plan (“HCP/NCCP”), dated October 2006, prepared by the East Contra Costa Habitat Conservation Planning Association, and approved by the USFWS under Section 10 of the Federal Endangered Species Act of 1973, as amended (16 U.S.C. Section 1531 *et seq.*) (“FESA”) and by DFW under California Fish and Game Code Section 2835; and
 - (ii) Implementing Agreement for the East Contra Costa County Habitat Conservation Plan/ Natural Community Conservation Plan, by and between East Contra Costa County Habitat Conservancy, County of Contra Costa, City of Pittsburg, City of

Clayton, City of Oakley, City of Brentwood, Contra Costa County Flood Control and Water Conservation District, District, USFWS, and DFW (the “**Implementing Agreement**”); and

- (iii) The federal incidental take permit issued by USFWS to East Contra Costa County Habitat Conservancy, County of Contra Costa, City of Pittsburg, City of Clayton, City of Oakley, City of Brentwood, Contra Costa County Flood Control and Water Conservation District and District (collectively, the “**Permittees**”) for the HCP/NCCP pursuant to Section 10(a)(1)(B) of FESA, as it may be amended from time to time; and
 - (iv) The state Incidental Take Permit issued to Permittees for the HCP/NCCP pursuant to California Fish and Game Code Section 2835, as it may be amended from time to time.
- C. A management plan for the Property (the “**Preserve Management Plan**”), developed in accordance with the applicable requirements of the HCP/NCCP Conservation Instruments, may be revised from time to time in accordance with the HCP/NCCP Conservation Instruments. The District shall maintain in its offices a full and complete copy of the most current Preserve Management Plan.
- D. The Property possesses wildlife and habitat values, including open space and significant ecological and habitat values that benefit endangered, threatened, and other species (the “**Conservation Values**”). The Conservation Values include, but are not limited to, habitat suitable for many or all of the following Covered Species (as defined in the HCP/NCCP) (collectively, the “**Property’s Covered Species**”): Townsend’s western big-eared bat (*Corynorhinus townsendii townsendii*), San Joaquin kit fox (*Vulpes macrotus mutica*), tricolored blackbird (*Agelaius tricolor*), golden eagle (*Aquila chrysaetos*), western burrowing owl (*Athene cunicularia hypugaea*), Swainson’s Hawk (*Buteo swainsoni*), silvery legless lizard (*Anniella pulchra pulchra*), Alameda whipsnake (*Masticophis lateralis euryxanthus*), Giant garter snake (*Thamnopsis gigas*), western pond turtle (*Clemmys marmorata*), California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana aurora draytonii*), foothill yellow-legged frog (*Rana boylei*), longhorn fairy shrimp (*Brachinecta longiantenna*), vernal pool fairy shrimp (*Brachinecta lynchi*), midvalley fairy shrimp (*Brachinecta mesovallensis*), vernal pool tadpole shrimp (*Lepidurus packardi*), Mount Diablo manzanita (*Arctostaphylos auriculata*), brittle scale (*Atriplex depressa*), San Joaquin spearscale (*Atriplex joanquiniana*), big tarplant (*Blepharizonia plumosa*), Mount Diablo fairy lantern (*Calochortus pulchellus*), recurved larkspur (*Delphinium recurvatum*), round-leaved filaree (*Erodium macrophyllum*), Diablo helianthella (*Helianthella castanea*), Brewer’s dwarf flax (*Hesperolinon breweri*), showy madia (*Madia radiata*), and adobe navarretia (*Navarretia nigelliformis* ssp. *nigelliformis*).

AGREEMENTS

NOW, THEREFORE, in consideration of the above and mutual covenants, terms, conditions and restrictions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to the laws of the State of California, District hereby declares that the Property, and every part thereof or interest therein, is now held and shall hereafter, in perpetuity (subject to termination only pursuant to **Section 5** below), be held, managed, transferred, sold, leased, conveyed and occupied subject to the restrictions (collectively, the "**Restrictions**") set forth in the Preserve Management Plan and this Covenant. The Restrictions and this Covenant shall burden and run with the Property, and every part thereof or interest therein, and shall be binding on all persons or entities having or acquiring any right, title or interest in the Property, or any part thereof. The Restrictions and this Covenant are intended to be a covenant running with the land and shall only be terminated in accordance with **Section 5** below.

1. Purposes. The purposes of the Restrictions are to ensure that the existing wildlife and habitat values of the Property will be forever protected by preventing any use of the Property that would significantly impair or interfere with the Conservation Values (the "**Purposes**").

2. Prohibited Uses. Any activity on or use of the Property inconsistent with the Purposes of the Restrictions is prohibited. Without limiting the generality of the foregoing, District, and its personal representatives, successors, assigns, employees, agents, lessees, licensees and invitees, are expressly prohibited from doing or permitting any of the following uses and activities on the Property, except as required by or specifically allowed in the Preserve Management Plan:

- (a) Unseasonable watering; incompatible use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals; incompatible fire protection activities; and other activities and uses which may adversely affect the Conservation Values;
- (b) Planting, introduction or dispersal of non-native or exotic plant or animal species;
- (c) Removing, destroying or cutting of trees, shrubs or other vegetation, except for allowable agricultural uses and as required by law for fire breaks, maintenance of existing foot trails or roads or creation of foot trails and roads in accordance with the Preserve Management Plan, prevention and treatment of disease, or control of non-native or exotic plants;
- (d) Use of off-road vehicles and use of any other motorized vehicles, except on established roads, or for public safety, or for land management, monitoring, habitat enhancement or restoration, and public education in accordance with the Preserve Management Plan;

(e) Agricultural activity, except low-intensity uses such as grazing, cropland and pasture that have been determined by USFWS and DFW to be compatible with the Conservation Values and are performed in accordance with the Preserve Management Plan;

(f) Commercial or industrial uses;

(g) Any legal or de facto division, subdivision or partitioning of the Property or any fee transfer of less than the entire Property;

(h) Construction, reconstruction or placement of any building, billboard, or any other structure or improvement of any kind, except for structures and improvements necessary for public safety or for management, monitoring, habitat enhancement or restoration, or recreational uses consistent with the Conservation Values and described in the Preserve Management Plan;

(i) Depositing or accumulation of soil, trash, ashes, refuse, waste, bio-solids or any other materials, except as necessary for habitat enhancement or restoration in accordance with Preserve Management Plan;

(j) Filling, dumping, excavating, draining, dredging, mining, drilling, removing or exploring for or extraction of minerals, loam, soil, sands, gravel, rocks or other material on or below the surface of the Property, and granting or authorizing any surface entry for any of these purposes, except as necessary for management, monitoring, habitat enhancement or restoration, or minor earthmoving activities associated with the construction of structures and improvements in accordance with the Preserve Management Plan;

(k) Altering the surface or general topography of the Property, including building of roads, paving or otherwise covering the Property with concrete, asphalt, or any other impervious material, except as necessary for management, monitoring, habitat enhancement or restoration, or minor earthmoving activities associated with the construction of structures and improvements in accordance with the Preserve Management Plan;

(l) Manipulating, impounding or altering any natural water course, body of water or water circulation on the Property, and activities or uses detrimental to water quality, including but not limited to, degradation or pollution of any surface or sub-surface waters, except as necessary for management, monitoring, habitat enhancement or restoration, in accordance with the Preserve Management Plan; and

(m) Transferring or abandoning any water, mineral or air rights necessary to protect, sustain, maintain or restore the Conservation Values.

3. District's Reserved Rights. District reserves to itself, and to its personal representatives, successors, and assigns, all rights accruing from its ownership of the Property,

including the right to engage in or to permit or invite others, including the public, to engage in all uses of the Property that are not expressly prohibited or limited by the Restrictions and the terms and conditions of this Covenant, and are consistent with, the Purposes, including, but not limited to, the right to implement the Preserve Management Plan.

4. Required Notice to Future Lessees and Licensees. Any lease, license, easement, or other rental or use agreement subsequently entered into or made with respect to any portion of the Property, whether written or oral, shall contain an express provision informing the lessee, tenant, licensee or other contracting party of the Restrictions and this Covenant and shall require such lessee, tenant, licensee or other contracting party to comply with all such Restrictions and the terms of this Covenant throughout the term of such lease, license or rental or use agreement.

5. Conveyances of Property.

(a) District shall not convey a fee interest in the Property without first obtaining the written approval of DFW and USFWS and complying with this Section 5.

(b) Before conveying the fee interest in all or any portion of the Property to another governmental or quasi-governmental entity, District shall require the entity receiving the fee interest to, in writing, acknowledge, accept, assume, and agree to be bound by the terms and conditions of this Covenant and, following such conveyance, shall cause such writing and any additional instruments that District, DFW and USFWS mutually agree are necessary to continue the effectiveness of this Covenant following such transfer, to be recorded in the Official Records of Contra Costa County.

(c) Before District conveys the fee interest in all or any portion of the Property to any party other than a governmental or quasi-governmental entity, including but not limited to any individual, partnership, corporation, or trust, District shall first enter into, and record in the Official Records, a conservation easement that fully satisfies all the following requirements (the “**Conservation Easement**”): (i) the Conservation Easement will satisfy all of the requirements under California Civil Code Section 815 *et seq.* for creating a conservation easement interest thereunder; (ii) the Conservation Easement will be held by East Contra Costa County Habitat Conservancy, a joint exercise of powers authority, or another nonprofit conservation organization that (x) is qualified and authorized to hold a conservation easement under California Civil Code Section 815.3, (y) has the financial and stewardship capacity and experience to hold conservation easements of this nature, and (z) has been approved in advance by USFWS and DFW; (iii) the Conservation Easement will include terms and conditions consistent with the protection of the Conservation Values and the Purposes of the Restrictions; (iv) the Conservation Easement will include other terms and conditions substantially similar to those included in other conservation easements that have been recorded to satisfy the habitat conservation requirements set forth in the HCP/NCCP Conservation Instruments; and (v) the form of Conservation Easement shall be approved in advance of recordation by USFWS and DFW. Effective automatically upon recordation of a Conservation Easement covering all or any portion of the Property, the Restrictions and this Covenant

shall terminate with respect to the portion of the Property covered by such recorded Conservation Easement.

(d) [INCLUDE THIS PARAGRAPH (d) ONLY IF THE PROPERTY IS ADJACENT TO ROAD PROJECT COVERED BY THE HCP/NCCP] USFWS and DFW acknowledge that a portion of the Property abuts XXX Road and that widening XXX Road is a covered activity under the HCP/NCCP. If, upon the request of a public agency, District proposes to transfer to the public agency any interest in a portion of the Property needed for the purpose of widening the road, District shall notify USFWS and DFW, and USFWS and DFW shall approve the proposal consistent with the terms of the HCP/NCCP. Provisions (b) and (c) above shall not apply to such transfers. Following any such transfer, the portion of the Property that had an interest transferred, or was transferred in fee, will no longer be part of the Property and cannot be credited toward the requirements of the HCP/NCCP Conservation Instruments.

6. Right of Inspection. USFWS and DFW, through its employees and representatives, shall be entitled to enter upon the Property for the limited purpose of confirming compliance with the terms and conditions contained in this Covenant. Unless and until the District allows public access to the property, USFWS or DFW shall provide three (3) days written notice to District before any such entry, and District shall have the right, through District's employees and representatives, to accompany and observe such entry. Once District allows public access to the Property, such notice shall no longer be required but, if possible, District would appreciate such notice as a courtesy. This provision does not apply to DFW wardens, who may enter public lands at any time to investigate potential violations of State or federal law, such as illegal poaching.

7. Remedies. If USFWS or DFW determines there is a violation of the terms of this Covenant, written notice of such violation and a demand for corrective action sufficient to cure the violation shall be given to District, with a copy provided to USFWS and/or DFW, as appropriate. If District fails to cure the violation within fifteen (15) days after receipt of written notice and demand from USFWS or DFW, as applicable, or if the cure reasonably requires more than fifteen (15) days to complete and District fails to begin the cure within such fifteen (15) day period or fails to continue diligently to complete the cure, USFWS or DFW may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Covenant, to recover any damages to which USFWS or DFW may be entitled for such violation or for any injury to the Conservation Values, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for other equitable relief, including, but not limited to, the restoration of the Property to the condition in which it existed prior to any such violation or injury.

If USFWS or DFW, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damage to the Conservation Values, USFWS or DFW may pursue its remedies under this section without prior notice to District or without waiting for the period provided for cure to expire. Remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

The rights of DFW and USFWS under this section apply equally to actual or threatened violations of the terms of this Covenant. The failure of DFW and USFWS to discover a violation or to take immediate legal action shall not bar DFW or USFWS from taking such action at a later time.

(a) **Costs of Enforcement.** Should proceedings be brought by DFW or USFWS to enforce or interpret any of the terms of this Covenant, the prevailing party in any such proceedings shall be entitled to recover from the non-prevailing party its actual costs and expenses, including, but not limited to, reasonable attorneys' and experts' fees and other costs of suit. If DFW or the USFWS is the prevailing party, such actual costs and expenses may include any habitat restoration costs incurred by DFW or USFWS to repair or restore harm to the Conservation Values that resulted from District's breach of the terms and conditions of this Covenant.

(b) **Enforcement Discretion.** Enforcement of the terms of this Covenant shall be at the respective discretion of USFWS and DFW, and any forbearance by either USFWS or DFW to exercise its rights under this Covenant in the event of any breach of any term of this Covenant shall not be deemed or construed to be a waiver of such term or of any subsequent breach of the same or any other term of this Covenant or of any rights under this Covenant. Likewise, no delay or omission by USFWS or DFW in the exercise of any right or remedy upon any breach shall impair such right or remedy or be construed as a waiver.

(c) **Acts Beyond District's Control.** Nothing contained in this Covenant shall be construed to, or shall entitle, USFWS or DFW to bring any action against District for any injury to or change in the Property resulting from (i) any natural cause beyond District's control, including, but not limited to, fire not caused by District, flood, storm, and earth movement, or any prudent action taken by District under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes; (ii) unauthorized acts of third parties; or (iii) acts by USFWS or DFW or any of their employees.

8. Liberal Construction. It is the intention of District that the Purposes of the Restrictions shall be carried out in perpetuity. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purposes that would render the provision valid shall be favored over any interpretation that would render it invalid.

9. Notices. Any notice, demand, request, consent, approval, or communication that District, USFWS or DFW desires or is required to give to the others must be in writing and be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class mail, postage fully prepaid, addressed as follows:

To District: East Bay Regional Park District
Land Acquisition Department
2950 Peralta Oaks Court
Oakland, California 94605

Attn: Land Acquisition Manager

To USFWS: United States Fish and Wildlife Service
U.S. Fish and Wildlife Service
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846
Attn: Field Supervisor

To DFW: California Department of Fish and Wildlife
Region 3, Bay-Delta
7329 Silverado Trail
Napa, CA 94558
Attn: Regional Manager

With a copy to:

Department of Fish and Wildlife
Office of the General Counsel
1416 Ninth Street, 12th Floor
Sacramento, California 95814-2090
Attn: General Counsel

or to such other address as any may designate for itself by written notice to the others. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) days after deposit into the United States mail.

10. Amendment or Extinguishment. Any instrument, and any provision in any instrument, that purports to amend, modify, or extinguish this Covenant shall be void, unless such instrument is executed by District, or District's successor in interest, and is approved in writing in advance by USFWS and DFW. Any such instrument must be consistent with the Purposes of the Restrictions, preserve the Conservation Values of the Property, and shall not affect the perpetual duration of this Covenant. Any amendment must be in writing, must refer to this Covenant by reference to its recordation data, must be approved by USFWS and DFW, and must be recorded in the Official Records of Contra Costa County.

11. Controlling Law. The interpretation and performance of this Covenant shall be governed by the laws of the State of California, disregarding the conflicts of law principles of such state, and by applicable Federal law.

12. Severability. If a court of competent jurisdiction voids or invalidates on its face any provision of this Covenant, such action shall not affect the remainder of this Covenant. If a court of competent jurisdiction voids or invalidates the application of any provision of this Covenant to a person or circumstance, such action shall not affect the application of the provision to other persons or circumstances.

IN WITNESS WHEREOF District has executed this Covenant on the day and year first above written.

**EAST BAY REGIONAL PARK DISTRICT,
a California special district**

By: _____

Name: _____

Title: General Manager

Approved as to form:

By: _____

District Counsel

State of California

Department of Fish and Wildlife

By: _____

Name: _____

Title: _____

United States Fish and Wildlife Service

By: _____

Name: _____

Title: _____

EXHIBITS: Exhibit A - Legal Description of the Property

STATE OF CALIFORNIA)
)
COUNTY OF _____) ss

On _____, 20__, before me, _____, Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) as _____ of East Bay Regional Park District, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

EXHIBIT A

Legal Description of the Property

EXHIBIT C

Form of Notice of Unrecorded Agreement

RECORDING REQUESTED BY, AND
WHEN RECORDED, PLEASE MAIL TO:

East Contra Costa County
Habitat Conservancy
Attn: Executive Director
30 Muir Road
Martinez, CA 94553

APNs:

Space above for Recorder's Use

**NOTICE OF UNRECORDED AGREEMENT
(WITH COVENANTS AFFECTING REAL PROPERTY)
(Name of Property)**

THIS NOTICE OF UNRECORDED AGREEMENT (WITH COVENANTS AFFECTING REAL PROPERTY) (the "Memorandum") is made this [redacted], 201[redacted] (the "Notice Date"), by EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY, a joint exercise of powers authority ("Conservancy"), and EAST BAY REGIONAL PARK DISTRICT, a California special district ("District"), to provide notice of an agreement between Conservancy and District affecting the real property described below.

This Notice is executed pursuant to that certain Funding Agreement, dated [redacted], 201[redacted], between Conservancy and District (the "Agreement"). The real property that is the subject of this Notice is comprised of [Insert Number of Acres] acres, located in Contra Costa County, California, and described on Exhibit A (the "Property"), pursuant to which Conservancy has provided certain funding to District in support of District's acquisition of the Property.

TO ALL INTERESTED PARTIES, PLEASE BE ADVISED AS FOLLOWS:

1. This Notice has been executed and recorded for the purpose of imparting notice of the Agreement and the respective rights and obligations of the parties thereto as set forth therein. All of the terms and conditions set forth in the Agreement are incorporated herein by this reference as if fully set forth herein. All capitalized terms used herein but not defined herein shall have the meanings set forth in the Agreement.

2. The Agreement includes certain rights and obligations of District relating to the Property, and certain restrictions on District's use of the Property, including, without limitation, the following:

(a) District will own, manage and use the Property for the purpose of protecting in perpetuity the Property's Covered Species in accordance with the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan, dated October 2006, prepared by the East Contra Costa Habitat Conservation Planning Association and approved by the United States Fish and Wildlife Service and the

California Department of Fish and Wildlife (“HCP/NCCP”) and the other terms and conditions set forth in the Agreement (the “Funding Purpose”).

(b) District will not assign, sell, transfer, exchange or otherwise convey all or any portion of the Property without obtaining the prior written approval of Conservancy, which approval shall not be unreasonably denied as long as the Property shall continue to be held and used only in a manner consistent with this Agreement, including the Funding Purpose.

(c) District shall not use all or any portion of the Property as security for any debt without obtaining the prior written approval of Conservancy.

3. This Notice is solely for the purpose of recording and in no way modifies the provisions of the Agreement. Conservancy and District each has rights, duties and obligations under the Agreement which are not set forth in this Notice. To the extent the terms of this Notice conflict with the Agreement, the terms of the Agreement shall govern and control.

4. A full and complete copy of the Agreement can be obtained from Conservancy or District at the following addresses:

East Contra Costa County Habitat Conservancy
30 Muir Road
Martinez, CA 94553

East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605

5. This Notice shall not be amended, modified, or removed except by a writing executed by Conservancy and District and recorded in the Official Records of Contra Costa County.

This Notice has been executed by Conservancy and District as of the Notice Date.

CONSERVANCY:

EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY,
a joint exercise of powers agency

By: _____
Name: Abigail Fateman
Title: Interim Executive Director
Date: _____

DISTRICT:

EAST BAY REGIONAL PARK DISTRICT,
a California special district

By: _____
Name: Robert E. Doyle
Title: General Manager
Date: _____

STATE OF CALIFORNIA)
)
COUNTY OF _____) ss

On _____, 20__, before me, _____, Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) as _____ of East Bay Regional Park District, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

EXHIBIT A

Legal Description of the Property

**CALIFORNIA WILDLIFE CONSERVATION BOARD
SUBGRANT AGREEMENT FOR ACQUISITION OF FEE INTEREST**

**Cooperative Endangered Species Conservation Fund
(Section 6 of the Federal Endangered Species Act) Grant Program**

Subgrantee: Full, Legal Name: East Contra Costa County Habitat Conservancy
Address: 30 Muir Road
Martinez, CA 94553

Attn: Abigail Fateman, Interim Executive Director

Phone: (925) 674-7820

Fax: (925) 674-7250

E-mail: abigail.fateman@dcd.cccounty.us

Federal Employer ID No./Taxpayer ID No.: 26-2547338

Successor Subgrantee: Name: East Bay Regional Park District
Address: P.O. Box 5381
Oakland, CA 94605-0381

Attn: Liz Musbach, Land Acquisition Manager

Phone: (510) 544-2610

Fax: (510) 569-1417

E-Mail: lmusbach@ebparks.org

Federal Employer ID No./Taxpayer ID No.: 94-60000-591

Project Name: [Insert Name of Property]

Project Location: Contra Costa County

Section 6 Grant Agreement Number: [Insert Section 6 Grant Agreement Number]

WCB Subgrant Agreement Number: [Insert WCB Subgrant Agreement Number]

WCB Project ID: [Insert WCB Project ID]

WCB Subgrant Agreement Amount: Not to exceed \$[Insert Numerical Amount]

Notices to be delivered to:

For Subgrantee: East Contra Costa County Habitat Conservancy
30 Muir Road
Martinez, CA 94553
Attn: Executive Director

For Successor
Subgrantee: East Bay Regional Park District
P.O. Box 5381
Oakland, CA 94605-0381
Attn: Land Acquisition Manager

For WCB: Wildlife Conservation Board
1807-13th Street, Suite 103
Sacramento, CA 95811-7137
Attn: Executive Director

With a copy to: Department of Fish and Wildlife
Habitat Conservation Branch
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
Attn: Grant Coordinator

1. BACKGROUND

1.1. The U.S. Department of the Interior, Fish and Wildlife Service (“USFWS”) and the California Department of Fish and Wildlife (“CDFW”) have entered into a Cooperative Agreement for the benefit of endangered, threatened and rare fish, wildlife and plants which are resident in the State of California.

1.2. USFWS has approved the Application for Federal Assistance submitted by CDFW, [Insert Grant Number] (the “Federal Grant Application”), for Cooperative Endangered Species Conservation Fund (Section 6 of the Federal Endangered Species Act) Grant Program funding (“Federal Grant Funds”) to facilitate the acquisition of real property identified in the Federal Grant Application. The Notice of Federal Assistance Approval for [Insert Grant Number] (the “Federal Approval Notice”) which USFWS issued to CDFW specifies terms of acceptance of the Federal Grant Funds. CDFW and USFWS have entered into Grant Agreement for Grant No. [Insert Grant Number], Grant Title: [Insert Grant Title] (the “Federal Grant Agreement”) which specifies additional terms and conditions of the grant of Federal Grant Funds. The Federal Approval Notice and Federal Grant Agreement, including the terms and conditions set forth or incorporated directly or by reference in either or both of these instruments, are referred to in this Subgrant Agreement (“Agreement”) individually and collectively as the “Federal Assistance Requirements”.

1.3. Successor Subgrantee has entered into an agreement to purchase the Property described in Section 3.1 of this Agreement, which Property is a portion of the real property identified in the Federal Grant Application. Subgrantee has requested a subgrant of Federal Grant Funds from CDFW, acting through the Wildlife Conservation Board (“WCB”), to facilitate Successor Subgrantee’s acquisition of the Property (the “Acquisition”).

1.4. USFWS will permit CDFW, acting through WCB, to subgrant Federal Grant Funds to Subgrantee for the purpose of facilitating Successor Subgrantee’s Acquisition upon and subject to the Federal Assistance Requirements and the terms and conditions set forth in this Agreement.

1.5. USFWS requires that non-federal funds equal to fifty five percent (55%) of the total estimated program costs, as set forth in the Federal Grant Application, must be provided as a match for the Federal Grant Funds.

1.6. Concurrently with this Agreement, WCB, Subgrantee and Successor Subgrantee have entered into Grant Agreement No. [Insert Grant Agreement Number], pursuant to which WCB agrees to grant to Subgrantee a portion of the non-federal share of funding for the Acquisition.

2. SCOPE OF AGREEMENT

2.1. Pursuant to Chapter 4 of Division 2 (commencing with Section 1300) of the California Fish and Game Code, WCB hereby subgrants to Subgrantee Federal Grant Funds in a sum not to exceed [Insert Subgrant Funds Amount (spelled out)] Dollars (\$[Insert Numerical Amount]) (the “Subgrant Funds”), upon and subject to the terms and conditions of this Agreement.

3. PURPOSES OF SUBGRANT

3.1. WCB is entering into this Agreement, and the Subgrant Funds shall be used, only for the purpose of facilitating Successor Subgrantee’s purchase of fee title to approximately [Insert Numerical Acreage] acres of land known as the [Insert Name of Property] and designated Assessor’s Parcel Numbers [Insert Assessor’s Parcel Number(s)] located in the County of Contra Costa, California (the “Property”). The Property is more particularly described in **Exhibit A** attached to this Agreement.

3.2. Subgrantee and Successor Subgrantee covenant and agree that if WCB requests disbursement of the Subgrant Funds and Successor Subgrantee acquires the Property, the Property shall be held and used for [Edit Following Grant Purpose(s)] the purposes of preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (“ECCC NCCP/HCP”) as well as protecting critical

habitat connectivity between existing preserved lands (individually and collectively, the "Purposes of Subgrant").

WCB understands the ECCC NCCP/HCP provides for low-intensity recreational uses on ECCC NCCP/HCP preserve lands, subject to appropriate constraints to protect covered species and natural communities, and that Property acquired with Subgrant Funds or used as a match for Subgrant Funds will be subject to such recreational uses, to the extent consistent with the ECCC NCCP/HCP. Notwithstanding the above, all parties acknowledge that nothing in this Agreement shall be deemed to impair pre-existing contracts or property rights on the real property proposed for Acquisition.

4. **CONDITIONS PRECEDENT TO SUBGRANT**

4.1. The obligation of WCB under this Agreement to request disbursement of the Subgrant Funds is conditioned upon and subject to the satisfaction of all of the following conditions precedent:

a. WCB shall have reviewed and approved all documents pertaining to Successor Subgrantee's acquisition of the Property, including but not limited to appraisals, preliminary title reports and items referenced therein, options, agreements for purchase and sale, escrow instructions, closing or settlement statements, and instruments of conveyance. Such review and approval by WCB shall not be unreasonably delayed or withheld. Subgrantee shall have removed or caused to be removed, or otherwise addressed to the satisfaction of WCB, any encumbrances or defects of title that WCB determines are inconsistent or could interfere with the Purposes of Subgrant. Any outstanding security interests or monetary encumbrances affecting the Property shall have been terminated or the holder of the encumbrance shall have irrevocably committed to remove its security interest or monetary encumbrance prior to the recording of the deed(s) conveying the Property to Successor Subgrantee.

b. Subgrantee shall have provided WCB with a letter or other written acknowledgment (which may be contained in the Successor Subgrantee's option or purchase agreement with the landowner) demonstrating that the landowner is a willing seller of the Property.

c. The purchase price of the Property shall not exceed its fair market value as established by an appraisal that is conducted by an appraiser who is licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the California Business and Professions Code. The appraisal shall have been prepared pursuant to the Uniform Appraisal Standards for Federal Land Acquisitions ("UASFLA") and the Uniform Standards of Professional Appraisal Practice ("USPAP"), and approved by the California Department of General Services ("DGS Review"). The

appraisal and DGS Review shall also have been submitted to and approved in writing by USFWS. The appraisal shall become part of the project file maintained by WCB and shall be retained for no less than three years from the date WCB requests disbursement of the Subgrant Funds from the federal Payment Management System.

d. Subgrantee and Successor Subgrantee shall have provided WCB with written certification that the Acquisition is not intended, and shall not serve, to satisfy any local, State or federal regulatory requirement (e.g., mitigation for any local, State or federal permit), including but not limited to complying with a biological opinion under Section 7 of the Endangered Species Act of 1973, 16 U.S.C. Section 1361 *et seq.*, as amended (“ESA”), or fulfilling commitments of a Habitat Conservation Plan under Section 10 of the ESA (the “Certification”). WCB understands that, following acquisition by Successor Subgrantee, the Property will be preserved and managed in accordance with and will fulfill certain commitments under the ECCC NCCP/HCP, to the extent provided for in the Federal Grant Application and the Federal Grant Agreement. The Certification shall be attached to this Agreement as **Exhibit B**.

e. Subgrantee shall have provided WCB with a written commitment by Subgrantee and Successor Subgrantee for management of the Property in perpetuity consistent with the Purposes of Subgrant and according to the provisions of the ECCC NCCP/HCP for managing preserved lands in perpetuity and for funding such management, including but not limited to Conservation Measure 1.2, “Prepare and Implement Preserve Management Plans for Natural Habitat Lands.” This commitment shall be attached to this Agreement as **Exhibit C**.

f. Subgrantee shall have provided WCB with assurances and certifications of compliance with federal requirements (i.e., Standard Form 424-D available at <http://training.fws.gov/fedaid/toolkit/toolkit.pdf>) by Subgrantee and Successor Subgrantee. Upon execution by Subgrantee and Successor Subgrantee, these assurances and certifications shall be attached to this Agreement as **Exhibit D**.

g. WCB shall have reviewed and approved a certified resolution or other appropriate action of the governing board or governing body of each of Subgrantee and Successor Subgrantee, authorizing the execution and performance of this Agreement and the acquisition of the Property by Successor Subgrantee. Upon approval by WCB the authorizing resolution or other action shall be attached to this Agreement as **Exhibit E**.

h. WCB shall be ready, willing and able to request payment of the Subgrant Funds from the federal Payment Management System for deposit with the State Treasurer’s Office.

i. WCB shall be ready, willing and able to request disbursement of the Subgrant Funds from the State Treasury for deposit into an escrow account designated by Subgrantee that has been established specifically for the purpose of the Acquisition (the "Escrow").

j. Subgrantee shall have deposited, or caused to be deposited, into the Escrow all funds beyond those granted under this Agreement that are needed for Successor Subgrantee to complete the Acquisition.

k. WCB shall have confirmed that the non-Federal share of funding required for the Acquisition has been provided.

5. DISBURSEMENT PROCEDURE

5.1. Upon satisfaction of all the Conditions Precedent to Subgrant set forth in Section 4.1 a – g, j and k, above, and subject to approval of the acceptance of the Subgrant Funds and the subgrant by the Wildlife Conservation Board at a duly noticed public meeting, Subgrantee shall send a letter to WCB (the "Disbursement Request"), asking it to request disbursement of the Subgrant Funds from (a) the federal Payment Management System for deposit with the State Treasurer's Office and following such deposit, (b) the State Treasury for deposit into Escrow. The Disbursement Request shall be signed by an authorized representative of Subgrantee and shall contain all of the following:

- a. Name and address of Subgrantee;
- b. Project Name and Number of Agreement;
- c. Dollar amount and purpose of disbursement;
- d. Name, address and telephone number of the title company or escrow holder, and the account number of the Escrow to which the Subgrant Funds will be disbursed; and
- e. Certifications by Subgrantee and Successor Subgrantee that all funds (exclusive of the Subgrant Funds to be provided under this Agreement) needed to complete the Acquisition have been secured and have been or will be deposited to Escrow at or about the same date as the requested Subgrant Funds.

5.2. After receipt of a complete and proper Disbursement Request, WCB will promptly and timely (estimated to be 45 working days from the date the WCB receives the Disbursement Request) request payment from the federal Payment Management System to the State Treasurer's Office of an amount not to exceed [Insert Amount (spelled out)] Dollars ([\$[Insert Numerical Amount]) for deposit into the State Treasury.

After such deposit, WCB will promptly and timely request payment of the same amount from the State Treasury for deposit into Escrow.

6. SUBGRANTEE'S AND SUCCESSOR SUBGRANTEE'S COVENANTS

6.1. In consideration of the subgrant of the Subgrant Funds, Subgrantee and Successor Subgrantee hereby covenant and agree as follows:

a. The Subgrant Funds shall be used as purchase money only, which excludes escrow and title fees and any other fees and costs incurred to accomplish the transaction and the conveyance and acquisition of the Property.

b. The Property shall be held and used only in a manner that is consistent with this Agreement, including the "Purposes of Subgrant" set forth in Section 3.2.

c. The Property shall be set aside in perpetuity for the purposes of conservation, including the Purposes of Subgrant.

d. Subgrantee and Successor Subgrantee shall comply with the terms and conditions of the award of Federal Grant Funds to CDFW, to the extent such terms and conditions are applicable to Subgrantee, Successor Subgrantee, the Subgrant Funds or the Property. Such terms and conditions are contained in the Federal Assistance Requirements.

e. Subgrantee and Successor Subgrantee shall recognize the cooperative nature of the Acquisition and shall provide credit to WCB, CDFW, USFWS, and any other contributor on signs, demonstrations, promotional materials, advertisements, publications or exhibits prepared or approved by Subgrantee and/or Successor Subgrantee which reference the Acquisition. Subject to the mutual agreement of WCB and Subgrantee regarding text, design and location, Subgrantee shall, or shall cause Successor Subgrantee to, post sign(s) on the Property to indicate the participation of WCB, CDFW and USFWS in Successor Subgrantee's purchase of the Property; *provided however*, that the sign(s) shall display the logo of WCB, as shown on **Exhibit F**.

f. The Property (including any portion of it or any interest in it) shall not be sold, transferred, exchanged, or otherwise conveyed without the written approval of the State of California (the "State"), acting through the Executive Director of WCB, or its successor, and USFWS (to the extent required pursuant to the Federal Assistance Requirements). The State shall not unreasonably withhold its approval as long as the Property shall continue to be held and used only in a manner consistent with this Agreement, including but not limited to Sections 6.1 (b) and (c), and each successor-in-interest assumes and agrees in a writing reasonably acceptable to the State to be bound by the terms, covenants and conditions of this Agreement.

g. The Property (including any portion of it or interest in it) may not be used as security for any debt without the written approval of the State, acting through the Executive Director of WCB, or its successor, and USFWS (to the extent required pursuant to the Federal Assistance Requirements).

h. Subgrantee shall record or cause to be recorded, concurrently with close of escrow for the purchase of the Property, a Notice of Unrecorded Agreement to Subgrant (the "Notice"), incorporating by reference this Agreement and giving public notice that Subgrantee received funds under this Agreement in order to assist Successor Subgrantee in acquiring the Property and that, in consideration for the receipt of the Subgrant Funds, Subgrantee and Successor Subgrantee have agreed to the terms of this Agreement. The Notice shall be in the form of **Exhibit G**.

i. Subgrantee shall cause Successor Subgrantee to provide to WCB, promptly following the close of escrow, a conformed copy of the recorded deed(s) and Notice, with all recording information set forth thereon, as well as a copy of the final Escrow closing or settlement statement and the title insurance policy insuring Successor Subgrantee as the owner of fee simple title to the Property. Subgrantee shall also cause Successor Subgrantee to provide copies of such other documents related to the closing of the Acquisition as requested by WCB. These documents shall become part of the project file maintained by WCB. Upon receipt of the above documents, WCB will provide USFWS with a copy of all documents for their files.

j. At the request of WCB, not less than once in any period of three calendar years, Subgrantee and Successor Subgrantee shall allow designated staff or representatives of WCB, CDFW and USFWS to access the Property to assess compliance with the terms, covenants, and conditions of this Agreement. *Provided, however*, that if more frequent access is necessary to comply with applicable federal requirements (including, but not limited to, 50 C.F.R. Section 81.13) then designated staff or representatives of WCB, CDFW and USFWS shall be allowed access to the Property at such intervals as WCB, CDFW or USFWS considers appropriate to meet federal requirements to which it is subject.

k. Subgrantee agrees to ensure that the terms and conditions of this Agreement shall be taken into account when calculating the Baseline/Business As Usual of the Property for purposes of establishing carbon credits or other emissions offsets proposed to be authorized, created, sold, exchanged or transferred. Subgrantee agrees to notify WCB prior to any such proposed establishment.

l. **[Insert this Section if Applicable]** The Property will be acquired by Successor Subgrantee subject to one or a combination of residential leases that

have been approved by WCB in accordance with the terms of this Agreement (collectively, the "Leases"). Following Successor Subgrantee's acquisition of the Property, Successor Subgrantee will be entitled to receive the lease revenues due under such Leases (collectively, the "Lease Revenues"). All Lease Revenues received by Successor Subgrantee shall be used by Successor Subgrantee as follows:

(i) To pay management costs associated with the management of any real property that is (1) identified in the Federal Grant Agreement, and (2) included in the ECCC NCCP/HCP preserve lands (collectively, the "Management Costs"), which Management Costs may include, without limitation, any combination of the following costs:

(A) Personnel performing day to day oversight, management and protection of such properties (e.g. the cost of rangers, police, and fire personnel);

(B) Fence repair, replacement and construction;

(C) Maintaining roads and access facilities;

(D) Control of invasive or exotic species;

(E) Improvement of livestock watering facilities to prevent degradation of natural waters and wetlands;

(F) Removal of debris & unnecessary structures, including buildings & unnecessary roads;

(G) Other habitat enhancement activities;

(H) Monitoring of habitat conditions and of ECCC HCP/NCCP covered species; and

(I) Adaptive management activities guided by monitoring;

and/or

(ii) To fund a non-wasting endowment that will provide funding for those Management Costs incurred following the date(s) Lease Revenues will be received and available to cover such costs.

The provisions of this Section 6.1.k of this Agreement only apply to Lease Revenues received under the Leases, which expressly include residential leases, and do not apply to lease revenues, if any, received under any grazing leases or other types of leases.

7. BREACH AND DEFAULT

7.1. In the event of a breach of any of the terms, covenants or conditions of this Agreement, WCB shall give written notice to Subgrantee and Successor Subgrantee, describing the breach. Notice shall be deemed given when personally delivered or deposited in the United States Mail, postage prepaid, or with a reliable over-night courier, addressed to Subgrantee and Successor Subgrantee at their respective addresses for notices set forth at the beginning of this Agreement (or such

changed address of which Subgrantee or Successor Subgrantee has notified WCB in writing pursuant to this Agreement).

7.2. If Subgrantee or Successor Subgrantee do not cure the breach within 90 days of the date a notice of breach is given or, if the breach is not curable within said 90-day period, Subgrantee or Successor Subgrantee do not commence the cure within the 90-day period and diligently pursue it to completion, then Subgrantee and Successor Subgrantee shall be in default ("Default") under this Agreement.

7.3. Subgrantee and Successor Subgrantee shall also be in Default under this Agreement upon the discovery that information given to WCB by or on behalf of Subgrantee or Successor Subgrantee under or in connection with obtaining this Agreement was materially false or misleading. Notice of a Default under this Section 7.3 shall be given in accordance with Section 7.1.

8. REMEDIES

In the event of a Default under this Agreement, in addition to any and all remedies available at law or in equity, WCB shall have the following remedies:

8.1. WCB may seek specific performance of this Agreement. Subgrantee and Successor Subgrantee agree that payment by Subgrantee and/or Successor Subgrantee to WCB of an amount equal to the Subgrant Funds disbursed under this Agreement would be inadequate compensation for any Default because the benefit to be derived from full compliance with the terms of this Agreement is preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the ECCC NCCP/HCP as well as protecting critical habitat connectivity between existing preserved lands and because such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by way of Subgrant Funds under this Agreement.

8.2. WCB may require Subgrantee to cause Successor Subgrantee to convey a conservation easement over the Property in favor of the State or, at the election of WCB, another entity or organization authorized by California law to acquire and hold conservation easements. Furthermore, WCB may also require Subgrantee to pay, or cause Successor Subgrantee to pay, a sum to WCB which, when combined with the fair market value of the conservation easement, equals the amount of Subgrant Funds provided by this Agreement, together with interest compounded semi-annually starting from the date of default, at a rate equivalent to the higher of (a) that which is being earned at the time of Default on deposits in the State of California's Pooled Money Investment Account or (b) the applicable rate of interest under the Federal Assistance Requirements. The conservation easement shall be for the purposes of preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the ECCC NCCP/HCP as well as protecting critical habitat connectivity between existing preserved lands. The value of the conservation easement shall be determined by an appraisal that

is conducted by an appraiser who is licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code and acceptable to WCB. The appraisal shall be prepared pursuant to UASFLA and USPAP and approved by DGS.

8.3. Intentionally Left Blank.

8.4. Despite the contrary provisions of Article 7 of this Agreement, if WCB determines that circumstances require immediate action to prevent or mitigate interference with the Purposes of Subgrant or other irreparable harm arising from a breach or threatened breach of this Agreement, then WCB may pursue its remedies without waiting for the period provided for cure to expire.

8.5. CDFW, as the grantee under the Federal Grant Agreement, shall be an express third-party beneficiary of this Agreement and shall have the same rights and remedies as WCB in the event of a breach or Default.

9. NONPROFIT ORGANIZATION SUBGRANTEE

9.1. If the existence of Successor Subgrantee is terminated for any reason, title to all interest in the Property acquired with Subgrant Funds shall immediately vest in the State. However, prior to that termination, upon approval of the State, acting through the Executive Director of WCB or its successor, another public agency or nonprofit organization may receive title to all or a portion of that interest in the Property by recording its acceptance of title in writing. Any deed or other instrument of conveyance whereby the Property or any interest in it is being acquired by a nonprofit organization pursuant to this Section 9.1 shall be recorded and shall set forth the executory interest or right of entry on the part of the State.

10. TERM

10.1. This Agreement shall be deemed executed and effective when signed by an authorized representative of each party and received in the respective offices of Subgrantee, Successor Subgrantee and WCB, together with the certifications, commitment and resolution described in Section 4.1 (d) – (g) (the “Effective Date”). Subgrantee, Successor Subgrantee and WCB shall each sign five original counterparts of this Agreement. Subgrantee and Successor Subgrantee shall each receive one completely executed original and WCB shall receive three completely executed originals.

10.2. The term of this Agreement will commence on the Effective Date and, unless previously terminated as provided in Section 10.3, will expire on [REDACTED], 201[REDACTED], if escrow has not closed by that date.

10.3. Prior to Successor Subgrantee’s close of escrow for acquisition of the Property, any party may terminate this Agreement for any reason or for no reason, by

providing the other parties with not less than 15 days' written notice of such termination. Notice shall be given in the same manner as specified in Section 7.1. If this Agreement is terminated after the deposit of the Subgrant Funds into Escrow but before close of escrow for Successor Subgrantee's acquisition of the Property, Subgrantee shall (or shall cause Successor Subgrantee to) cause the escrow holder to immediately return all Subgrant Funds to (or as instructed by) WCB and Subgrantee shall bear all costs and expenses of such termination.

10.4. In the event this Agreement is terminated in accordance with its terms, no party shall have any rights nor remedies against the other parties except as provided herein.

10.5. The provisions of this Agreement that are not fully performed as of the close of escrow, including but not limited to Sections 3 (Purposes of Subgrant), 6 (Subgrantee's Covenants), 7 (Breach and Default) and 8 (Remedies) shall survive the close of escrow for Successor Subgrantee's acquisition of the Property and remain in full force and effect.

11. LIABILITY, MODIFICATIONS, INTERPRETATION

11.1. Subgrantee and Successor Subgrantee shall indemnify, protect and hold harmless WCB, CDFW, the State of California, and their respective members, directors, officers, agents, and employees (each an "Indemnified Party"), from and against any and all claims, demands, damages, liabilities, losses, costs (including attorneys' fees) and expenses (collectively, "Claims") arising out of, connected with, or incident to this Agreement or the acquisition, ownership, use, management, operation or maintenance of the Property, except that neither Subgrantee nor Successor Subgrantee shall have any obligation to indemnify or hold harmless an Indemnified Party for Claims caused by the negligent or wrongful act of that Indemnified Party.

11.2. This Agreement may be modified only by written amendment signed by WCB, Subgrantee and Successor Subgrantee. No prior or contemporaneous oral understanding or agreement not incorporated in this Agreement shall be binding on either of the parties.

11.3. All references herein to "Subgrantee" are intended to refer to Subgrantee or its designee, successor or assignee as may be approved by WCB (including, upon its acquisition of the Property, Successor Subgrantee).

11.4. If any provision of this Agreement or the application thereof to any person or circumstance is held to be invalid or unenforceable, that shall not affect any other provision of this Agreement or applications of the Agreement that can be given effect without the invalid provision or application and to this end the provisions of this Agreement are severable.

11.5. Subgrantee, Successor Subgrantee, and their officers, directors, employees, agents and representatives, is each acting in an independent capacity in entering into and carrying out this Agreement, and not as a partner, member, director, officer, agent, employee or representative of WCB, CDFW or the State of California.

11.6. This Agreement is not assignable or transferable by Subgrantee or Successor Subgrantee, either in whole or in part, except in connection with a transfer of the Property approved by WCB under Section 6.1 (f) of this Agreement.

11.7. Any costs incurred by WCB or CDFW, where it is the prevailing party, in enforcing the terms of this Agreement against Subgrantee, including but not limited to costs of suit, attorneys' and experts' fees, at trial and on appeal, and costs of enforcing any judgment, shall be borne by Subgrantee.

11.8. Enforcement of the terms of this Agreement by WCB or CDFW shall be at its discretion, and any forbearance by WCB or CDFW to exercise its rights under this Agreement shall not be deemed or construed to be a waiver of such term or of any subsequent breach of the same or any other term of this Agreement or any of the rights of WCB or CDFW under it.

11.9. WCB will notify Subgrantee and Successor Subgrantee as promptly as possible following its receipt of any request under the California Public Records Act (Government Code Section 6250 *et seq.*) for information related to the Acquisition.

12. CONDEMNATION

12.1. If all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, WCB, Subgrantee and Successor Subgrantee shall act jointly to recover from the condemning authority the full value of the Property so taken or purchased, and all direct or incidental damages resulting therefrom. WCB shall be entitled to the share of the Award (as defined below) which equals the ratio of the Subgrant Funds to the total purchase price Successor Subgrantee paid to acquire the Property (e.g., if Successor Subgrantee paid a purchase price of \$2 million and the amount of Subgrant Funds was \$750,000, then WCB would be entitled to 37.5% of the Award). For purposes of this Agreement, the "Award" shall mean all compensation awarded, paid or received on account of the Property so taken or purchased, and all direct or incidental damages resulting from the taking or purchase, less all out-of-pocket expenses reasonably incurred by Successor Subgrantee in connection with the taking or purchase.

13. AUDIT

13.1. Subgrantee and Successor Subgrantor shall each maintain complete and accurate records of its actual project costs, in accordance with generally accepted accounting principles and practices, and shall retain said records for at least four years after the date the Subgrant Funds are deposited into Escrow. During such time,

Subgrantee shall make said records available (or cause them to be made available) to the State of California for inspection and audit purposes during normal business hours. Expenditures not documented, and expenditures not allowed under this Agreement or otherwise authorized in writing by WCB shall be borne by Subgrantee. Except to the extent the Federal Assistance Requirements (including, but not limited to, 50 C.F.R. Section 81.15) provide otherwise, the audit shall be confined to those matters connected with this Agreement, including but not limited to administration and overhead costs.

14. UNION ORGANIZING

14.1. Subgrantee and Successor Subgrantee hereby acknowledge the applicability of Government Code Sections 16645 through 16649 to this Agreement and certifies that:

- a. No state funds (as defined in Government Code Section 16645) disbursed by this subgrant will be used to assist, promote or deter union organizing;
- b. Subgrantee and Successor Subgrantee shall account for state funds disbursed for a specific expenditure by this subgrant, to show those funds were allocated to that expenditure;
- c. Subgrantee and Successor Subgrantee shall, where funds are not designated as described in Section 14.1(b) above, allocate, on a pro-rata basis, all disbursements that support the subgrant program; and
- d. If Subgrantee or Successor Subgrantee makes expenditures to assist, promote or deter union organizing, such party will maintain records sufficient to show that no state funds were used for those expenditures, and that such party shall provide those records to the Attorney General upon request.

15. NON-DISCRIMINATION

15.1. During the performance of this Agreement, Subgrantee and Successor Subgrantee are subject to all Federal and State laws prohibiting discrimination including but not limited to Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794), Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12131 *et seq.*), the Age Discrimination Act of 1975 (42 U.S.C. Section 6101 *et seq.*), the Fair Employment and Housing Act (Government Code Section 12900 (a – f) *et seq.*), and applicable regulations (California Code of Regulations, Title 2, Section 7285 *et seq.*). Subgrantee and Successor Subgrantee shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability (including HIV and AIDS),

mental disability, medical condition, marital status, age (over 40), sex, sexual orientation, or use of family-care leave, medical-care leave, or pregnancy-disability leave. Subgrantee and Successor Subgrantee shall take affirmative action to ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination and harassment. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Subgrantee and Successor Subgrantee shall comply with 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), which are incorporated by reference into this Agreement. Subgrantee and Successor Subgrantee shall each give written notice of its obligations under this non-discrimination clause to labor organizations with which Subgrantee or Successor Subgrantee has a collective bargaining or other agreement, and shall post in conspicuous places available to employees and applicants for employment, notice setting forth the provisions of this section. Subgrantee and Successor Subgrantee shall also include the nondiscrimination and compliance provisions of this Agreement in all contracts related to the Acquisition.

16. DRUG-FREE WORKPLACE REQUIREMENTS

16.1. Subgrantee and Successor Subgrantee each hereby certify that it shall provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1990 (Government Code Section 8350 *et seq.*) by taking all of the following actions:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace and specifying the actions to be taken against employees for violations;
- b. Establishing a drug-free awareness program to inform employees about all of the following:
 - (i) The dangers of drug abuse in the workplace;
 - (ii) The organization's policy of maintaining a drug-free workplace;
 - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees for drug abuse violations.
- c. Requiring that every employee engaged in the performance of this Agreement:
 - (i) Be given a copy of the organization's drug-free workplace policy statement; and

(ii) Must agree to abide by the terms of the organization's statement as a condition of employment in connection with this Agreement.

Failure to comply with the above requirements may result in suspension of payments under, or termination of, this Agreement, or both. Subgrantee and Successor Subgrantee may be ineligible for award of any future grants or subgrants from the State if the State determines that Subgrantee and Successor Subgrantee have made a false certification; or violates the certification by failing to carry out the requirements set forth above.

17. **EXHIBITS**

Each of the Exhibits referenced in this Agreement is incorporated by reference as though set forth in full herein. The following Exhibits are attached to this Agreement:

- Exhibit A** – Property Description and List of Assessor's Parcel Numbers
- Exhibit B** – Certification of No Regulatory Requirements
- Exhibit C** – Commitment for Management and Funding
- Exhibit D** – Assurances and Certifications
- Exhibit E** – Certified Resolution or Other Action of Governing Body of Subgrantee
- Exhibit F** – WCB's Logo
- Exhibit G** – Form of Notice of Unrecorded Agreement to Subgrant

18. AUTHORIZATION

The signature of the Executive Director certifies that at the Board meeting held on _____, 201____, the Wildlife Conservation Board authorized the award of a subgrant to Subgrantee as provided in this Agreement.

IN WITNESS WHEREOF, this Subgrant Agreement is made and entered into this _____ day of _____, 2014, in the State of California, by and between the Wildlife Conservation Board and the East Contra Costa County Habitat Conservancy, the East Bay Regional Park District, each of which does hereby agree to the terms and conditions referenced on pages 1 through 17, along with Exhibits A through G, of this Agreement.

**STATE OF CALIFORNIA
WILDLIFE CONSERVATION BOARD**

**SUBGRANTEE
EAST CONTRA COSTA COUNTY HABITAT
CONSERVANCY**

By: _____
John P. Donnelly

By: _____
Abigail Fateman

Title: Executive Director

Title: Interim Executive Director

Date: _____

Date: _____

**SUCCESSOR SUBGRANTEE
EAST BAY REGIONAL PARK DISTRICT**

By: _____
Robert E. Doyle

Title: General Manager

Date: _____

EXHIBIT A

Legal Description

EXHIBIT B

Certification of No Regulatory Requirements

The undersigned are the Executive Director of the East Contra Costa County Habitat Conservancy and the General Manager of the East Bay Regional Park District, the Subgrantee and Successor Subgrantee, respectively, under the California Wildlife Conservation Board Subgrant Agreement for Acquisition of Fee Interest (Agreement) of which this **Exhibit B** forms a part. Subgrantee and Successor Subgrantee hereby certifies to the Wildlife Conservation Board (WCB) as follows:

Subgrantee's acquisition of the Property (as defined in the Agreement) located in Contra Costa County, California, is not intended, and shall not serve, to satisfy any local, state or federal regulatory requirement (e.g., mitigation for any local, state or federal authorization or permit), including but not limited to complying with a biological opinion under Section 7 of the Endangered Species Act of 1973, 16 U.S.C. Section 1361 *et seq.*, as amended ("ESA"), or fulfilling commitments of a Habitat Conservation Plan under Section 10 of the ESA, provided that Property acquired with any Subgrant Funds will be preserved and managed in accordance with, and will fulfill certain commitments of, the ECCC NCCP/HCP, to the extent consistent with the Federal Grant Application and the Federal Grant Agreement.

Subgrantee and Successor Subgrantee make this Certificate with the understanding that if WCB enters into the Agreement and subgrants Federal Grant Funds (as defined in the Agreement) to Subgrantee and Successor Subgrantee, WCB will do so in reliance on this Certificate.

Dated: _____, 20_____

SUBGRANTEE

East Contra Costa County Habitat Conservancy

By: _____

Print Name: Abigail Fateman

Title: Interim Executive Director

SUCCESSOR SUBGRANTEE

East Bay Regional Park District

By: _____

Print Name: Robert E. Doyle

Title: General Manager

EXHIBIT C

Commitment for Management and Funding

The undersigned are the Executive Director of the East Contra Costa County Habitat Conservancy (ECCCHC) and the General Manager of the East Bay Regional Park District (EBRPD), the Subgrantee and Successor Subgrantee, respectively, under the California Wildlife Conservation Board Subgrant Agreement for Acquisition of Fee Interest (Agreement) of which this **Exhibit C** forms a part. Subgrantee and Successor Subgrantee hereby commit to the Wildlife Conservation Board (WCB) as follows:

ECCCHC is the agency responsible for ensuring the preservation and management of lands acquired pursuant to the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (ECCC NCCP/HCP). Conservation Measure 1.2 (“Prepare and Implement Preserve Management Plans for Natural Habitat Lands”) of the ECCC NCCP/HCP commits the ECCCHC to ensuring the preparation and implementation of Preserve Management Plans for acquired lands and sets forth standards for such management. Section 8.6.2 of the ECCC NCCP/HCP provides the ECCCHC with the ability to cooperate with other entities such as EBRPD to acquire and manage lands pursuant to the ECCC NCCP/HCP.

EBRPD is a party to an agreement implementing the ECCC NCCP/HCP and is anticipated to be a primary owner and manager of lands acquired pursuant to the ECCC NCCP/HCP. EBRPD will be the owner and manager of the Property (as defined in the Agreement). EBRPD owns and manages more than 100,000 acres of land in Alameda and Contra Costa Counties, much of which is similar in character and management need to the lands to be acquired pursuant to the Agreement. ECCCHC will provide assistance to EBRPD with management of Property, including funding assistance.

Subgrantee and Successor Subgrantee hereby commit to manage the Property (as defined in the Agreement) located in Contra Costa County, California, in perpetuity and according to the provisions of the ECCC NCCP/HCP for managing preserved lands in perpetuity and for funding such management, consistent with the following Purposes of Subgrant:

[Edit Purposes of Subgrant] *“preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (“ECCC NCCP/HCP”) as well as protecting critical habitat connectivity between existing preserved lands”*

Specific management actions for the Property are not known at this time. ECCCHC, with assistance from EBRPD, are in the process of developing a Preserve Management Plan for the Property. Management actions could include removal, repair and replacement of fences, inclusion of improved management conditions in the grazing lease and supervision of the grazing tenant, and control of exotic species. Anticipated costs of land management activities under the ECCC NCCP/HCP are set forth in Tables 9-1 and 9-2 and supporting detail is provided in Appendix G.

In furtherance of the commitment set forth above, and in order to manage the property consistent with the Purposes of this Subgrant, Subgrantee and Successor Subgrantee will fund management in perpetuity consistent with the funding plan established in Section 9.3 of the ECCC NCCP/HCP. ECCCHC and EBRPD anticipate allocating the costs of such management among the two agencies consistent with the general principle that ECCCHC will pay for those management costs relating to management and monitoring of the species and EBRPD will pay for those management costs relating to public access and public use of the Property. ECCCHC and EBRPD anticipate entering into one or more future agreements confirming their respective obligations to pay management costs, including the funding mechanisms for such payment which may be in the form of annual payments or an endowment.

Subgrantee and Successor Subgrantee make this Commitment with the understanding that if WCB enters into the Agreement and subgrants Federal Grant Funds (as defined in the Agreement) to Successor Subgrantee, WCB will do so in reliance on this Commitment.

Dated: _____, 20_____

SUBGRANTEE

East Contra Costa County Habitat Conservancy

By: _____

Print Name: Abigail Fateman

Title: Interim Executive Director

SUCCESSOR SUBGRANTEE

East Bay Regional Park District

By: _____

Print Name: Robert E. Doyle

Title: General Manager

EXHIBIT D

(Assurances and Certifications)

ASSURANCES - CONSTRUCTION PROGRAMS**Agenda Item #11d**

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

Agenda Item #11d

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED

ASSURANCES - CONSTRUCTION PROGRAMS**Agenda Item #11d**

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

Agenda Item #11d

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED

EXHIBIT E

(Certified Resolution or Other Action of Governing Body of Subgrantee)

EXHIBIT F

(WCB Logo)



EXHIBIT G

(Notice of Unrecorded Subgrant Agreement)

RECORDING REQUESTED BY:

East Contra Costa County)
Habitat Conservancy)
30 Muir Road)
Martinez, CA 94553)
Attn: Executive Director)

WHEN RECORDED, RETURN TO:

State of California)
Wildlife Conservation Board)
Attn: Executive Director)
1807 13th Street, Suite 103)
Sacramento, CA 95811-7137)

Project Name: [Insert Property Name]
County: Contra Costa
APNs: [Insert Assessor's Parcel Number(s)]

Space above line for Recorder's use

**NOTICE OF UNRECORDED SUBGRANT AGREEMENT
(WITH COVENANTS AFFECTING REAL PROPERTY)**

This Notice of Unrecorded Subgrant Agreement ("Notice"), dated as of _____, 201__, is made by the East Contra Costa County Habitat Conservancy ("Subgrantee"), and the East Bay Regional Park District ("Successor Subgrantee") and recorded concurrently with the Deed described below, to provide notice of an agreement between Subgrantee, Successor Subgrantee and the Wildlife Conservation Board ("WCB"), a subdivision of the State of California, affecting the real property described below.

1. WCB, Subgrantee and Successor Subgrantee have entered into the California Wildlife Conservation Board Subgrant Agreement for Acquisition of Fee Interest, WCB Subgrant Agreement No. [Insert WCB Subgrant Agreement Number] (Section 6 Grant Agreement No. [Insert Section 6 Grant Agreement Number]) ("Subgrant" or "Agreement"), pursuant to which WCB subgrants to Subgrantee certain Federal Grant Funds for Successor Subgrantee's acquisition of fee title to approximately [Insert Numerical Acreage] acres of real property located in the County of Contra Costa, California (the "Property"), by Grant Deed (the "Deed") from [Insert Name of Seller] ("Seller"). The Property is legally described in **Exhibit A** attached to this Notice and incorporated in it by this reference. Initial-capitalized terms used in this Notice and not otherwise defined shall have the meaning set forth in the Subgrant.

2. Subgrantee and Successor Subgrantee agree under the terms of the Subgrant to execute this Notice to give notice that Subgrantee received funds under the

Agreement to assist Successor Subgrantee in acquiring the Property and that, in consideration of the Subgrant Funds, Subgrantee and Successor Subgrantee have agreed to the terms of the Subgrant. The Subgrant is incorporated by reference into this Notice.

3. Subgrantee and Successor Subgrantee covenant and agree in Section 6.1 b. of the Agreement as follows:

3.1. The Property shall be held and used only in a manner that is consistent with the Agreement, including the following “Purposes of Subgrant” set forth in Section 3.2 of the Agreement:

[Edit Purposes of Subgrant Accordingly] The Property shall be held and used for the purposes of preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (“ECCC NCCP/HCP”) as well as protecting critical habitat connectivity between existing preserved lands (individually and collectively, the “Purposes of Subgrant”).

3.2. The Property shall be set aside in perpetuity for the purposes of conservation, including the Purposes of Subgrant.

3.3. Subgrantee and Successor Subgrantee shall comply with the terms and conditions of the award of Federal Grant Funds to the California Department of Fish and Wildlife (“CDFW”), to the extent such terms and conditions are applicable to Subgrantee, Successor Subgrantee, the Subgrant Funds or the Property.

3.4. The Property (including any portion of it or any interest in it) shall not be sold, transferred, exchanged or otherwise conveyed without the written approval of the State of California (the “State”), acting through the Executive Director of WCB, or its successor, and the U.S. Department of the Interior, Fish and Wildlife Service (“USFWS”) (to the extent required pursuant to the Federal Assistance Requirements).

3.5. The Property (including any portion of it or any interest in it) may not be used as security for any debt without the written approval of the State, acting through the Executive Director of WCB, or its successor, except to the extent the use of the Property as security is prohibited or limited by the Federal Assistance Requirements.

3.6. At the request of WCB, not less than once in any period of three calendar years, Subgrantee and Successor Subgrantee shall allow designated staff or representatives of WCB, CDFW and USFWS to access the Property to assess compliance with the terms, covenants and conditions of this Agreement. Provided, however, that if more frequent access is necessary to comply with applicable federal requirements (including, but not limited to, 50 C.F.R. Section 81.13) then Subgrantee and Successor Subgrantee shall allow designated staff or representatives of WCB, CDFW and USFWS access to the Property at such intervals as

WCB, CDFW or USFWS considers appropriate to meet federal requirements to which it is subject.

4. Pursuant to Section 8 of the Agreement, in the event of a Default under the Agreement, in addition to any and all remedies available at law or in equity, WCB may seek specific performance of the Subgrant and may require Successor Subgrantee to convey a conservation easement over the Property in favor of the State (or, at the election of WCB, another entity or organization authorized by California law to acquire and hold conservation easements), and to pay a sum to WCB which, when combined with the fair market value of the conservation easement, equals the amount of Subgrant Funds provided by the Agreement, together with interest thereon as provided in the Agreement. CDFW, as the Grantee under the Federal Grant Agreement, shall be an express third-party beneficiary of the Agreement and shall have the same rights and remedies as WCB in the event of a breach or Default by Subgrantee or Successor Subgrantee.

5. Pursuant to Section 9 of the Agreement, if the existence of Successor Subgrantee is terminated for any reason, title to all interest in the Property acquired with Subgrant funds shall immediately vest in the State. However, prior to that termination, upon approval of the State, acting through the Executive Director of WCB or its successor, another public agency or nonprofit organization may receive title to all or a portion of that interest in the Property by recording its acceptance of title in writing. Any deed or other instrument of conveyance whereby the Property or any interest in it is being acquired by a nonprofit organization pursuant to this section shall be recorded and shall set forth the executory interest or right of entry on the part of the State.

6. Pursuant to Section 10 of the Agreement, the provisions of the Subgrant that are not fully performed as of the close of escrow shall survive the close of escrow for Successor Subgrantee's acquisition of the Property and shall remain in full force and effect.

7. Pursuant to Section 11 of the Agreement, the Subgrant shall be binding upon Subgrantee and Successor Subgrantee and all designees, successors and assigns of Subgrantee and Successor Subgrantee.

8. Pursuant to Section 12 of the Agreement, if all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, WCB and Successor Subgrantee shall act jointly to recover from the condemning authority the full value of the Property so taken or purchased, and all direct or incidental damages resulting therefrom. WCB shall be entitled to the share of the Award which equals the ratio of the Subgrant Funds provided by WCB to the total purchase price Successor Subgrantee paid to acquire the Property.

9. This Notice is solely for the purpose of recording and in no way modifies the provisions of the Agreement. Subgrantee, Successor Subgrantee and WCB each has rights, duties and obligations under the Agreement which are not set forth in this Notice. To the extent the terms of this Notice conflict with the Agreement, the terms of the Agreement shall govern and control.

10. For additional terms and conditions of the Agreement, reference should be made to the California Wildlife Conservation Board Subgrant Agreement for Acquisition of Fee Interest by and between WCB, Subgrantee and Successor Subgrantee that commenced [REDACTED], 201[REDACTED] and is on file with the Wildlife Conservation Board, 1807 13th Street, Suite 103, Sacramento, California 95811-7137; *mailing address*: Wildlife Conservation Board, c/o Department of Fish and Wildlife, P. O. Box 944209, Sacramento, CA 94244-2090.

SUBGRANTEE:

East Contra Costa County Habitat Conservancy

By: _____

Print Name: Abigail Fateman

Title: Interim Executive Director

SUCCESSOR SUBGRANTEE:

East Bay Regional Park District

By: _____

Print Name: Robert E. Doyle

Title: General Manager

[Notary Acknowledgment]

EXHIBIT A

Legal Description

CALIFORNIA WILDLIFE CONSERVATION BOARD
GRANT AGREEMENT FOR ACQUISITION OF FEE INTEREST

Grantee: Name: East Contra Costa County Habitat Conservancy
Address: 30 Muir Road
Martinez, CA 94553

Attn: Abigail Fateman, Interim Executive Director

Phone: (925) 674-7820
Fax: (925) 674-7250
E-mail: abigail.fateman@dcd.cccounty.us

Federal Employer ID No./Taxpayer ID No.: 26-2547338

Successor Grantee: Name: East Bay Regional Park District
Address: P.O. Box 5381
Oakland, CA 94605-0381

Attn: Liz Musbach, Land Acquisition Manager

Phone: (510) 544-2610
Fax: (510) 569-1417
E-Mail: lmusbach@ebparks.org

Federal Employer ID No./Taxpayer ID No.: 94-60000-591

Project Name: [Insert Name of Property]

Project Location: Contra Costa County

WCB Grant Agreement Number: [Insert Grant Agreement Number]

WCB Project ID: [Insert WCB Project ID]

Grant Agreement Amount: Not to exceed \$[Insert Numerical Amount]

Notices to be addressed to:

For Grantee: East Contra Costa County Habitat Conservancy
30 Muir Road
Martinez, CA 94553
Attn: Executive Director

For Successor
Grantee: East Bay Regional Park District
P.O. Box 5381
Oakland, CA 94605-0381
Attn: Land Acquisition Manager

For Grantor: Wildlife Conservation Board
1807 13th Street, Suite 103
Sacramento, CA 95811-7137
Attn: Executive Director

With a copy to: Department of Fish and Wildlife
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
Attn: Director

1. SCOPE OF AGREEMENT

Pursuant to Chapter 4 of Division 2 (commencing with Section 1300) of the California Fish and Game Code and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection fund of 2006 (Proposition 84, Public Resources Code Section 75055(c)), the Wildlife Conservation Board (“Grantor”) hereby grants to East Contra Costa County Habitat Conservancy, (“Grantee”) and East Bay Regional Park District, (“Successor Grantee”), a sum not to exceed [Insert Grant Amount (spelled out)] Dollars (\$[Insert Numerical Amount]) (“Grant Funds”), upon and subject to the terms and conditions of this Grant Agreement for Acquisition of Fee Interest (“Agreement”).

2. PURPOSES OF GRANT

Grantor is entering into this Agreement, and the Grant Funds shall be used, only for the purpose of the project (the “Project”) described as: Successor Grantee’s acquisition of fee title to approximately [Insert Number of Acres] acres of land known as the [Insert Name of Property], located in the County of Contra Costa, California (the “Property”). The Property is more particularly described in **Exhibit A** attached to this Agreement.

Grantee and Successor Grantee covenant and agree that if Grantor deposits the Grant Funds into escrow and Successor Grantee acquires the Property, the Property shall be held and used for the purposes of [Edit Pruposes of Grant Accordinly] preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (“ECCC NCCP/HCP”) as well as protecting critical habitat connectivity between existing preserved lands (individually and collectively, the

“Purposes of Grant”).

Grantor understands the ECCC NCCP/HCP provides for low-intensity recreational uses on ECCC NCCP/HCP preserve lands, subject to appropriate constraints to protect covered species and natural communities, and that Property acquired with Grant Funds or used as a match for Grant Funds will be subject to such recreational uses, to the extent consistent with the ECCC NCCP/HCP. Notwithstanding the above, all parties acknowledge that nothing in this Agreement shall be deemed to impair pre-existing contracts or property rights on the real property proposed for acquisition.

3. CONDITIONS OF GRANT

Grantor’s obligation to disburse Grant Funds under this Agreement is conditioned upon and subject to the satisfaction of all of the following conditions precedent:

3.1. Grantor shall have reviewed and approved all documents pertaining to Successor Grantee’s acquisition of the Property, including, without limitation, appraisals, preliminary title reports and items referenced therein, options, agreements for purchase and sale, escrow instructions, and instruments of conveyance. Such review and approval by Grantor shall not be unreasonably withheld or delayed. Successor Grantee shall have removed or caused to be removed, or otherwise addressed to the satisfaction of Grantor, any encumbrances or defects of title that Grantor determines are inconsistent, or could interfere, with the Purposes of Grant. Any outstanding security interests or monetary encumbrances affecting the Property shall have been terminated.

3.2. Grantee shall acquire the Property from a willing seller for a purchase price that does not exceed the fair market value of the Property, as established by an appraisal that is conducted by an appraiser who is licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code. The appraisal shall be prepared pursuant to the Uniform Standards of Professional Appraisal Practice (USPAP) and approved by the Department of General Services. The appraisal shall become part of the project file maintained by Grantor and shall be retained for no less than three years from the date of value.

3.3. Grantor shall have reviewed and approved a certified resolution or other appropriate action of the governing board or governing body of Grantee and Successor Grantee, authorizing the execution and performance of this Agreement and the acquisition of the Property by Successor Grantee. Upon approval by Grantor, the authorizing resolution or other action shall be attached to this Agreement as **Exhibit B**.

3.4. Grantee and Successor Grantee shall have deposited, or caused to be deposited, into escrow all funds beyond those granted under this Agreement that are needed for Grantee and Successor Grantee to complete the Project.

3.5. Concurrently with this Agreement, WCB and Grantee and Successor Grantee have entered into Subgrant Agreement No. [Insert Subgrant Agreement Number], pursuant to which WCB agrees to subgrant to Grantee the entire federal share of funding to facilitate Grantee's acquisition of the Property.

3.6. Grantee shall have provided WCB with a written commitment by Grantee and Successor Grantee for management of the Property in perpetuity consistent with the Purposes of Grant and according to the provisions of the ECCC NCCP/HCP for managing preserved lands in perpetuity and for funding such management, including but not limited to Conservation Measure 1.2, "Prepare and Implement Preserve Management Plans for Natural Habitat Lands". This commitment shall be attached to this Agreement as **Exhibit E**.

3.7. Grantee and Successor Grantee shall have provided WCB with written certification that the Acquisition is not intended, and shall not serve, to satisfy any local, State or federal regulatory requirement (e.g., mitigation for any local, State or federal permit), including but not limited to complying with a biological opinion under Section 7 of the Endangered Species Act of 1973, 16 U.S.C. Section 1361 *et seq.*, as amended ("ESA"), or fulfilling commitments of a Habitat Conservation Plan under Section 10 of the ESA (the "Certification"). WCB understands that, following acquisition by Successor Grantee, the Property will be preserved and managed in accordance with and will fulfill certain commitments under the ECCC NCCP/HCP, to the extent provided for in the Federal Grant Application and the Federal Grant Agreement. The Certification shall be attached to this Agreement as **Exhibit F**.

4. DISBURSEMENT PROCEDURE

Except as provided in paragraph 17, upon satisfaction of all of the above Conditions of Grant, and subject to approval of the Project by the Wildlife Conservation Board at a duly noticed public meeting, Grantor shall disburse the Grant Funds directly into an escrow account established for the Project according to the following procedure:

4.1. Grantee shall request disbursement of the Grant Funds by sending a letter to the Grantor ("Disbursement Request"). The Disbursement Request shall be signed by an authorized representative of Grantee and shall contain all of the following:

- a. Name and address of Grantee;
- b. Project Name and Number of Grant Agreement;

- c. Dollar amount and purpose of disbursement;
- d. Name, address and telephone number of the title company or escrow holder, name of the escrow officer, and the escrow account number to which the Grant Funds will be disbursed; and
- e. A certification by Grantee that all funds (exclusive of the Grant Funds to be provided under this Agreement) needed to complete the Project have been secured and have been or will be deposited to escrow prior to or at the same time as the requested Grant Funds.

4.2. After receipt of the Disbursement Request, Grantor will promptly and timely (estimated to be 45 working days from the date Grantor receives the Disbursement Request) disburse an amount not to exceed [Insert Amount (spelled out)] Dollars (\$[Insert Numerical Amount]) into the designated escrow account.

5. GRANTEE'S AND SUCCESSOR GRANTEE'S COVENANTS

In consideration of Grantor's disbursement of the Grant Funds, Grantee and Successor Grantee hereby covenant and agree as follows:

5.1. The Grant Funds shall be used as purchase money only, which excludes escrow and title fees and any other fees and costs incurred to accomplish the transaction and the conveyance and acquisition of the Property.

5.2. The Property shall be held and used only in a manner that is consistent with this Agreement, including the "Purposes of Grant" set forth in Section 2.

5.3. Grantee and Successor Grantee shall recognize the cooperative nature of the Project and shall provide credit to the Grantor, the California Department of Fish and Wildlife ("CDFW") and any other contributor on signs, demonstrations, promotional materials, advertisements, publications or exhibits prepared or approved by Grantee and/or Successor Grantee referencing the Project. Subject to the mutual agreement of Grantor, Grantee and Successor Grantee regarding text, design and location, Grantee shall, or shall cause Successor Grantee to, post sign(s) on the Property to indicate the participation of Grantor and CDFW in Successor Grantee's purchase of the Property; *provided however*, that the sign(s) shall display Grantor's logo, as shown on **Exhibit C**.

5.4. The Property (including any portion of it or any interest in it) shall not be sold, transferred, exchanged or otherwise conveyed without the written approval of the State of California, acting through the Executive Director of the Wildlife Conservation Board ("WCB"), or its successor. Such approval shall not be unreasonably withheld as long as the Property shall continue to be held and used only in a manner consistent with this Agreement, including the Purposes of

Grant set forth in Section 2, and each successor-in-interest assumes and agrees in writing to be bound by the terms, covenants and conditions of this Agreement.

5.5. The Property (including any portion of it or interest in it) may not be used as security for any debt without the written approval of the State of California, acting through the Executive Director of WCB, or its successor.

5.6. Grantee shall record or cause to be recorded, concurrently with close of escrow for the purchase of the Property, a Notice of Unrecorded Grant Agreement (the "Notice"), incorporating by reference this Agreement and giving public notice that Grantee received funds under this Agreement in order to assist Successor Grantee in acquiring the Property and that, in consideration for the receipt of the Grant Funds, Grantee and Successor Grantee have agreed to the terms of this Agreement. The Notice shall be in the form of **Exhibit D**.

5.7. Grantee or Successor Grantee shall provide to Grantor, promptly following the close of escrow, a conformed copy of the recorded deed(s) and Notice, with all recording information, as well as a copy of the final closing or settlement statement and the title insurance policy insuring Successor Grantee as the owner of fee simple title to the Property. Grantee shall also cause Successor Grantee to provide copies of such other documents related to the closing of the above transaction as requested by Grantor. These documents shall become part of the project file maintained by Grantor.

5.8. At the request of Grantor, not less than once in any period of three calendar years, Grantee and Successor Grantee shall allow designated staff of Grantor to access the Property to assess compliance with the terms, covenants and conditions of this Agreement.

5.9. Grantee and Successor Grantee agree to ensure that the terms and conditions of this Grant Agreement shall be taken into account when calculating the Baseline/Business As Usual of the Property for purposes of establishing carbon credits or other emissions offsets proposed to be authorized, created, sold, exchanged or transferred. Grantee and Successor Grantee agree to notify Grantor prior to any such proposed establishment.

5.10 [Include this Section if Property has Communication Tower, Wind Turbine, or Residential Lease Revenue] The Property will be acquired by Successor Grantee subject to one or a combination of residential leases that have been approved by WCB in accordance with the terms of this Agreement (collectively, the "Leases"). Following Successor Grantee's acquisition of the Property, Successor Grantee will be entitled to receive the lease revenues due under such Leases (collectively, the "Lease Revenues"). All Lease Revenues received by Successor Grantee shall be used by Successor Grantee as follows:

- a. To pay management costs associated with the management of any

real property that is (1) identified in the Federal Grant Agreement and described in Exhibit A attached to the Agreement, and (2) included in the ECCC NCCP/HCP preserve lands (collectively, the "Management Costs"), which Management Costs may include, without limitation, any combination of the following costs:

- (i) Personnel performing day to day oversight, management and protection of such properties (e.g. the cost of rangers, police, and fire personnel);
- (ii) Fence repair, replacement and construction;
- (iii) Maintaining roads and access facilities;
- (iv) Control of invasive or exotic species;
- (v) Improvement of livestock watering facilities to prevent degradation of natural waters and wetlands;
- (vi) Removal of debris & unnecessary structures, including buildings & unnecessary roads;
- (vii) Other habitat enhancement activities;
- (viii) Monitoring of habitat conditions and of ECCC HCP/NCCP covered species; and
- (ix) Adaptive management activities guided by monitoring; and/or

b. To fund a non-wasting endowment that will provide funding for those Management Costs incurred following the date(s) Lease Revenues will be received and available to cover such costs.

The provisions of this Section 5.10 of this Agreement only apply to Lease Revenues received under the Leases, which expressly include a residential lease, and do not apply to lease revenues, if any, received under any grazing leases or other types of leases.

6. BREACH AND DEFAULT

6.1. In the event of a breach of any of the terms, covenants or conditions of this Agreement, Grantor shall give written notice to Grantee and Successor Grantee describing the breach. Notice shall be deemed given when personally delivered or deposited in the United States Mail, postage prepaid, or with a reliable over-night courier, addressed to Grantee and Successor Grantee at the addresses for notices set forth at the beginning of this Agreement.

6.2. If Grantee or Successor Grantee does not cure the breach within 90 days of the date a notice of breach is given or, if the breach is not curable within said 90-day period, Grantee or Successor Grantee does not commence the cure within the 90-day period and diligently pursue it to completion, then Grantee and Successor Grantee shall be in default ("Default") under this Agreement.

6.3. Grantee and Successor Grantee shall also be in Default under this

Agreement upon the discovery that information given to Grantor by or on behalf of Grantee or Successor Grantee under or in connection with obtaining this Agreement was materially false or misleading. Notice of a Default under this Section 6.3 shall be given in accordance with Section 6.1.

7. REMEDIES

In the event of a Default under this Agreement, in addition to any and all remedies available at law or in equity, Grantor shall have the following remedies:

7.1. Grantor may seek specific performance of this Agreement. Grantee and Successor Grantee agree that payment by Grantee and/or Successor Grantee to Grantor of an amount equal to the Grant Funds disbursed under this Agreement would be inadequate compensation to Grantor for any Default because the benefit to be derived by Grantor from full compliance by Grantee and Successor Grantee with the terms of this Agreement is the preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the ECCC NCCP/HCP as well as protecting critical habitat connectivity between existing preserved lands and because such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by Grantor by way of Grant Funds under this Agreement.

7.2. Grantor may require Grantee and/or Successor Grantee to convey a conservation easement over the Property in favor of Grantor or, at the election of Grantor, another entity or organization authorized by California law to acquire and hold conservation easements and to pay, or cause Successor Grantee to pay, a sum to Grantor which, when combined with the fair market value of the conservation easement, equals the sum granted to Grantee pursuant to this Agreement, together with interest compounded semi-annually starting from the date of this Agreement to and including the date of payment, at a rate equivalent to that which is being earned at the time of Default on deposits in the State of California's Pooled Money Investment Account. The conservation easement shall be for the purposes of preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the ECCC NCCP/HCP as well as protecting critical habitat connectivity between existing preserved lands. The value of the conservation easement shall be determined by a fair market value appraisal that is conducted by an appraiser who is licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code and acceptable to Grantor. The appraisal shall be prepared pursuant to USPAP and, if required by law, approved by the Department of General Services.

7.3. Despite the contrary provisions of Article 6 of this Agreement, if Grantor determines that circumstances require immediate action to prevent or mitigate

interference with the Purposes of Grant arising from a breach of this Agreement, then Grantor may pursue its remedies without waiting for the period provided for cure to expire.

8. NONPROFIT ORGANIZATION GRANTEE

If the existence of Successor Grantee is terminated for any reason, title to all interest in the Property acquired with Grant Funds shall immediately vest in the State. However, prior to that termination, upon approval of the State, acting through the Executive Director of WCB or its successor, another public agency or nonprofit organization may receive title to all or a portion of that interest in the Property by recording its acceptance of title in writing. Any deed or other instrument of conveyance whereby the Property or any interest in it is being acquired by a nonprofit organization pursuant to this Section 8 shall be recorded and shall set forth the executory interest or right of entry on the part of the State.

9. TERM

9.1. This Agreement shall be deemed executed and effective when signed by an authorized representative of each party and received in the respective offices of Grantee, Successor Grantee and Grantor, together with the resolution described in Section 3.3 (the "Effective Date"). Grantee, Successor Grantee and Grantor shall each sign three original Agreements. Each party shall receive one completely executed original.

9.2. The term of this Agreement will commence on the date authorized by the Wildlife Conservation Board, as set forth in Section 16 and, unless previously terminated as provided in Section 9.3, will expire on [REDACTED], 201[REDACTED] if escrow has not closed by that date.

9.3. Prior to Successor Grantee's close of escrow for acquisition of the Property, any party may terminate this Agreement for any reason or for no reason, by providing the other parties with not less than 15 days written notice of such termination. If this Agreement is terminated after Grantor's deposit of the Grant Funds into escrow but before close of escrow for Successor Grantee's acquisition of the Property, Grantee shall cause the escrow holder to immediately return all Grant Funds to Grantor and Grantee shall bear all costs and expenses of such termination.

9.4. The provisions of this Agreement that are not fully performed as of the close of escrow, including but not limited to Section 2 (Purposes of Grant) and Section 5 (Grantee's and Successor Grantee's Covenants), shall survive the close of escrow for Successor Grantee's acquisition of the Property and remain in full force and effect.

10. LIABILITY; MODIFICATIONS; INTERPRETATION

10.1. Grantee and Successor Grantee shall indemnify, protect and hold harmless Grantor, CDFW, the State of California, and their respective members, directors, officers, agents, and employees (each an "Indemnified Party"), from and against any and all claims, demands, damages, liabilities, losses, costs (including attorneys' fees) and expenses (collectively, "Claims") arising out of, connected with, or incident to this Agreement or the acquisition, ownership, use, management, operation or maintenance of the Property, except that Grantee and Successor Grantee shall have no obligation to indemnify or hold harmless an Indemnified Party for Claims caused by the negligent or wrongful act of that Indemnified Party.

10.2. This Agreement may be modified only by written amendment signed by Grantor, Grantee, and Successor Grantee. No prior or contemporaneous oral understanding or agreement not incorporated in this Agreement shall be binding on either of the parties.

10.3. All references herein to "Grantee" are intended to refer to Grantee or its designee, successor or assignee as may be approved by WCB (including, upon its acquisition of the Property, Successor Grantee).

10.4. If any provision of this Agreement or the application thereof to any person or circumstance is held to be invalid or unenforceable, that shall not affect any other provision of this Agreement or applications of the Agreement that can be given effect without the invalid provision or application and to this end the provisions of this Agreement are severable.

10.5. Grantee, Successor Grantee, and their officers, directors, employees, agents and representatives, is each acting in an independent capacity in entering into and carrying out this Agreement, and not as a partner, member, director, officer, agent, employee or representative of Grantor.

10.6. This Agreement is not assignable or transferable by Grantee or Successor Grantee, either in whole or in part, except in connection with a transfer of the Property approved by Grantor under Section 5.4 of this Agreement.

10.7. Any costs incurred by Grantor, where Grantor is the prevailing party, in enforcing the terms of this Agreement against Grantee, including but not limited to costs of suit, attorneys' and experts' fees, at trial and on appeal, and costs of enforcing any judgment, shall be borne by Grantee and Successor Grantee.

10.8. Enforcement of the terms of this Agreement by Grantor shall be at the discretion of Grantor, and any forbearance by Grantor to exercise its rights under this Agreement shall not be deemed or construed to be a waiver of such term or of any subsequent breach of the same or any other term of this Agreement or any of the rights of Grantor under it.

10.9. Grantor will notify Grantee and Successor Grantee as promptly as possible following Grantor's receipt of any request for information related to the Project under the California Public Records Act (Government Code Section 6250 *et seq.*).

11. CONDEMNATION

If all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, Grantor, Grantee, and Successor Grantee shall act jointly to recover from the condemning authority the full value of the Property so taken or purchased, and all direct or incidental damages resulting therefrom. Grantor shall be entitled to the share of the Award (as defined below) which equals the ratio of the Grant Funds provided by Grantor to the purchase price Successor Grantee paid to acquire the Property (e.g., if Grantor provided \$50,000.00 of Grant Funds and the purchase price was \$75,000.00, then Grantor would be entitled to two-thirds of the Award). For purposes of this Agreement, the "Award" shall mean all compensation awarded, paid or received on account of the Property so taken or purchased, and all direct or incidental damages resulting from the taking or purchase, less all out-of-pocket expenses reasonably incurred by Successor Grantee in connection with the taking or purchase.

12. AUDIT

Grantee and Successor Grantee shall maintain complete and accurate records of its actual Project costs, in accordance with generally accepted accounting principles and practices, and shall retain said records for at least four years after final disbursement by Grantor. During such time, Grantee and Successor Grantee shall make said records available (or cause them to be made available) to the State of California for inspection and audit purposes during normal business hours. Expenditures not documented, and expenditures not allowed under this Agreement or otherwise authorized in writing by Grantor shall be borne by Grantee and Successor Grantee. The audit shall be confined to those matters connected with this Agreement, including but not limited to administration and overhead costs.

13. UNION ORGANIZING

By signing this Agreement, Grantee and Successor Grantee hereby acknowledge the applicability of Government Code Sections 16645 through 16649 to this Agreement and certify that:

13.1. No state funds disbursed by this grant will be used to assist, promote or deter union organizing;

13.2. Grantee and Successor Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to

that expenditure;

13.3. Grantee and Successor Grantee shall, where state funds are not designated as described in Section 13.2 above, allocate, on a pro-rata basis, all disbursements that support the grant program; and

13.4. If Grantee or Successor Grantee makes expenditures to assist, promote or deter union organizing, Grantee and Successor Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee and Successor Grantee shall provide those records to the Attorney General upon request.

14. NON-DISCRIMINATION

During the performance of this Agreement, Grantee and Successor Grantee shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability (including HIV and AIDS), mental disability, medical condition, marital status, age (over 40), sex, sexual orientation, or use of family-care leave, medical-care leave, or pregnancy-disability leave. Grantee and Successor Grantee shall take affirmative action to ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination and harassment. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Grantee and Successor Grantee shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 (a – f) *et seq.*), and applicable regulations (California Code of Regulations, Title 2, Section 7285 *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 by reference into this Agreement. Grantee and Successor Grantee shall give written notice of its obligations under this non-discrimination clause to labor organizations with which Grantee or Successor Grantee has a collective bargaining or other agreement, and shall post in conspicuous places available to employees and applicants for employment, notice setting forth the provisions of this section. Grantee and Successor Grantee shall also include the nondiscrimination and compliance provisions of this Agreement in all contracts related to the Project.

15. EXHIBITS

Each of the Exhibits referenced in this Agreement is incorporated by reference as though set forth in full herein. The following Exhibits are attached to this Agreement:

Exhibit A – Legal Description

Exhibit B – Certified Resolution or Other Action of Governing Body of Grantee

and Successor Grantee

Exhibit C – Grantor’s Logo

Exhibit D – Form of Notice of Unrecorded Grant Agreement

Exhibit E – Commitment for Management and Funding

Exhibit F – Certificate of No Regulatory Requirement

16. AUTHORIZATION

The signature of the Executive Director certifies that at the Wildlife Conservation Board meeting held on [REDACTED], 201[REDACTED], the Board authorized the award of an acquisition grant to Grantee as provided in this Agreement.

17. NON-AVAILABILITY OF FUNDS.

Grantor shall not be obligated to disburse any Grant Funds under this Agreement unless and until the bond cash proceeds identified for allocation to the Project (as further specified in the Funding Certification attached to this Agreement) are released by the State Treasurer’s Office to Grantor for expenditure for this grant. Despite any contrary provision of this Agreement, no request for disbursement submitted prior to the release of such bond cash proceeds to Grantor shall be effective.

IN WITNESS WHEREOF, this Agreement is made and entered into this ___ day of _____, _____ in the State of California, by and between the Wildlife Conservation Board East Contra Costa County Habitat Conservancy and East Bay Regional Park District, each of which hereby agrees to the terms and conditions referenced on pages 1 through 14, along with Exhibits A through F, of this Agreement.

STATE OF CALIFORNIA
WILDLIFE CONSERVATION BOARD

GRANTEE:
EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY

By: _____
John P. Donnelly

By: _____
Aibigail Fateman

Title: Executive Director

Title: Interim Executive Director

Date: _____

Date: _____

SUCCESSOR GRANTEE
EAST BAY REGIONAL PARK DISTRICT

By: _____
Robert E. Doyle

Title: General Manager

Date: _____

EXHIBIT A

(Legal Description)

EXHIBIT B

(Resolution)

EXHIBIT C

(WCB Logo)



EXHIBIT D

(Notice of Unrecorded Grant Agreement)

RECORDING REQUESTED BY:

East Contra Costa County)
Habitat Conservancy)
30 Muir Road)
Martinez, CA 94553)
Attn: Executive Director)

WHEN RECORDED, RETURN TO:

State of California)
Wildlife Conservation Board)
Attn: Executive Director)
1807 13th Street, Suite 103)
Sacramento, CA 95811-7137)

Space above line for Recorder's use

APNs: [Insert Assessor's Parcel Number(s)]
Property Name: [Insert Property Name]
County: Contra Costa County

**NOTICE OF UNRECORDED GRANT AGREEMENT
(WITH COVENANTS AFFECTING REAL PROPERTY)**

This Notice of Unrecorded Grant Agreement ("Notice"), dated as of [redacted], 201[redacted], is made by East Contra Costa County Habitat Conservancy ("Grantee"), and the East Bay Regional Park District ("Successor Grantee") and recorded concurrently with the Deed described below, to provide notice of an agreement between Grantee, Successor Grantee, and the Wildlife Conservation Board ("Grantor" or "WCB"), a subdivision of the State of California, affecting the real property described below.

1. WCB, Grantee and Successor Grantee have entered into the California Wildlife Conservation Board Grant Agreement for Acquisition of Fee Interest, Grant Agreement No. [Insert WCB Grant Number] ("Grant" or "Agreement"), pursuant to which WCB grants to Grantee certain funds for Successor Grantee's acquisition of fee title to approximately [Insert Number of Acres] acres of real property located in the County of Contra Costa, California (the "Property"), by Grant Deed (the "Deed") from [Insert Name of Seller] ("Seller"). The Property is legally described in **Exhibit A** attached to this Notice and incorporated in it by this reference. Initial-capitalized terms used in this Notice and not otherwise defined shall have the meaning set forth in the Grant.

2. Grantee and Successor Grantee agree under the terms of the Grant to execute this Notice to give notice that Grantee received funds under the Agreement to

assist Grantee in acquiring the Property and that, in consideration of the Grant Funds, Grantee and Successor Grantee have agreed to the terms of the Grant. The Grant is incorporated by reference into this Notice.

3. Grantee and Successor Grantee covenant and agree in Section 5 of the Agreement as follows:

3.1. The Property shall be held and used only in a manner that is consistent with the Agreement, including the following “Purposes of Grant” set forth in Section 2 of the Agreement:

[Edit Purposes of Grant Accordingly] The Property shall be held and used for the purposes of preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (“ECCC NCCP/HCP”) as well as protecting critical habitat connectivity between existing preserved lands (individually and collectively, the “Purposes of Grant”).

3.2. The Property (including any portion of it or any interest in it) shall not be sold, transferred, exchanged or otherwise conveyed without the written approval of the State of California, acting through the Executive Director of the Wildlife Conservation Board (“WCB”), or its successor. Such approval shall not be unreasonably withheld as long as the Property shall continue to be held and used only in a manner consistent with this Agreement, including the Purposes of Grant set forth in Section 2, and each successor-in-interest assumes and agrees in writing to be bound by the terms, covenants and conditions of this Agreement.

3.3. The Property (including any portion of it or any interest in it) may not be used as security for any debt without the written approval of the State of California, acting through the Executive Director of WCB or its successor.

3.4. At the request of Grantor, not less than once in any period of three calendar years, Grantee and Successor Grantee shall allow designated staff of Grantor to access the Property to assess compliance with the terms, covenants and conditions of this Agreement.

4. Pursuant to Section 7 of the Agreement, in the event of a Default under the Agreement, in addition to any and all remedies available at law or in equity, Grantor may seek specific performance of the Grant and may require Successor Grantee to convey a conservation easement over the Property in favor of Grantor (or, at the election of Grantor, another entity or organization authorized by California law to acquire and hold conservation easements and which is willing and financially able to assume all of the obligations and responsibilities of Successor Grantee), and to pay a sum to Grantor which, when combined with the fair market value of the conservation easement, equals the sum

granted to Grantee pursuant to the Agreement, together with interest thereon as provided in the Agreement.

5. Pursuant to Section 8 of the Agreement, if Successor Grantee is a nonprofit organization and the existence of Successor Grantee is terminated for any reason, title to all interest in real property acquired with state funds shall immediately vest in the State of California. However, prior to that termination, upon approval of Grantor, another public agency or nonprofit organization may receive title to all or a portion of that interest in real property by recording its acceptance of title in writing. Any deed or other instrument of conveyance whereby real property is being acquired by a nonprofit organization pursuant to this section shall be recorded and shall set forth the executory interest and right of entry on the part of the State of California.

6. Pursuant to Section 9.2 of the Agreement, the Grant shall remain in full force and effect from and after the close of escrow for the acquisition of the Property.

7. Pursuant to Section 10.3 of the Agreement, the Grant shall be binding upon Grantee and all designees, successors and assigns of Grantee (including, upon its acquisition of the Property, Successor Grantee).

8. Pursuant to Section 11 of the Agreement, if all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, Grantor, Grantee and Successor Grantee shall act jointly to recover from the condemning authority the full value of the Property so taken or purchased, and all direct or incidental damages resulting therefrom. Grantor shall be entitled to the share of the Award, which equals the ratio of the Grant Funds provided by Grantor to the purchase price Successor Grantee paid to acquire the Property.

9. This Notice is solely for the purpose of recording and in no way modifies the provisions of the Agreement. Grantee, Successor Grantee and WCB each has rights, duties and obligations under the Agreement, which are not set forth in this Notice. To the extent the terms of this Notice conflict with the Agreement, the terms of the Agreement shall govern and control.

10. For additional terms and conditions of the Agreement, reference should be made to the California Wildlife Conservation Board Grant Agreement for Acquisition of Fee Interest by and between WCB, Grantee and Successor Grantee that commenced [REDACTED], 201[REDACTED] and is on file with the Wildlife Conservation Board, 1807 13th Street, Suite 103, Sacramento, California 95811-7137; *mailing address*: Wildlife Conservation Board, c/o Department of Fish and Wildlife, P. O. Box 944209, Sacramento, CA 94244-2090.

GRANTEE: EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

By: _____
Abigail Fateman

Title: Interim Executive Director

Date: _____

SUCCESSOR GRANTEE: EAST BAY REGIONAL PARK DISTRICT

By: _____
Robert E. Doyle

Title: General Manager

Date: _____

Exhibit A

Legal Description

EXHIBIT E

Commitment for Management and Funding

The undersigned are the Executive Director of the East Contra Costa County Habitat Conservancy (ECCCHC) and the General Manager of the East Bay Regional Park District (EBRPD), the Grantee and Successor Grantee, respectively, under the California Wildlife Conservation Board Grant Agreement for Acquisition of Fee Interest (Agreement) of which this **Exhibit E** forms a part. Grantee and Successor Grantee hereby commit to the Wildlife Conservation Board (WCB) as follows:

ECCCHC is the agency responsible for ensuring the preservation and management of lands acquired pursuant to the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (ECCC NCCP/HCP). Conservation Measure 1.2 ("Prepare and Implement Preserve Management Plans for Natural Habitat Lands") of the ECCC NCCP/HCP commits the ECCCHC to ensuring the preparation and implementation of Preserve Management Plans for acquired lands and sets forth standards for such management. Section 8.6.2 of the ECCC NCCP/HCP provides the ECCCHC with the ability to cooperate with other entities such as EBRPD to acquire and manage lands pursuant to the ECCC NCCP/HCP.

EBRPD is a party to an agreement implementing the ECCC NCCP/HCP and is anticipated to be a primary owner and manager of lands acquired pursuant to the ECCC NCCP/HCP. EBRPD will be the owner and manager of the Property (as defined in the Agreement). EBRPD owns and manages more than 100,000 acres of land in Alameda and Contra Costa Counties, much of which is similar in character and management need to the lands to be acquired pursuant to the Agreement. ECCCHC will provide assistance to EBRPD with management of Property, including funding assistance.

Grantee and Successor Grantee hereby commit to manage the Property (as defined in the Agreement) located in Contra Costa County, California, in perpetuity and according to the provisions of the ECCC NCCP/HCP for managing preserved lands in perpetuity and for funding such management, consistent with the following Purposes of Grant:

[Edit Purposes of Grant Accordingly] "preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan ("ECCC NCCP/HCP") as well as protecting critical habitat connectivity between existing preserved lands"

Specific management actions for the Property are not known at this time. ECCCHC, with assistance from EBRPD, are in the process of developing a Preserve Management Plan for the Property. Management actions could include removal, repair and replacement of fences, inclusion of improved management conditions in the grazing lease and supervision of the grazing tenant, and control of exotic species. Anticipated costs of land management activities under the ECCC NCCP/HCP are set forth in Tables 9-1 and 9-2 and supporting detail is provided in Appendix G.

In furtherance of the commitment set forth above, and in order to manage the property consistent with the Purposes of this Agreement, Grantee and Successor Grantee will fund management in perpetuity consistent with the funding plan established in Section 9.3 of the ECCC NCCP/HCP. ECCCHC and EBRPD anticipate allocating the costs of such management among the two agencies consistent with the general principle that ECCCHC will pay for those management costs relating to management and monitoring of the species and EBRPD will pay for those management costs relating to public access and public use of the Property. ECCCHC and EBRPD anticipate entering into one or more future agreements confirming their respective obligations to pay management costs, including the funding mechanisms for such payment which may be in the form of annual payments or an endowment.

Grantee and Successor Grantee make this Commitment with the understanding that if WCB enters into the Agreement and grants funds (as defined in the Agreement) to Successor Grantee, WCB will do so in reliance on this Commitment.

Dated: _____, 20_____

GRANTEE

East Contra Costa County Habitat Conservancy

By: _____

Print Name: Abigail Fateman

Title: Interim Executive Director

SUCCESSOR GRANTEE

East Bay Regional Park District

By: _____

Print Name: Robert E. Doyle

Title: General Manager

EXHIBIT F

Certificate of No Regulatory Requirement

The undersigned are the Executive Director of the East Contra Costa County Habitat Conservancy and the General Manager of the East Bay Regional Park District, the Grantee and Successor Grantee, respectively, under the California Wildlife Conservation Board Grant Agreement for Acquisition of Fee Interest (Agreement) of which this **Exhibit F** forms a part. Grantee and Successor Grantee hereby certifies to the Wildlife Conservation Board (WCB) as follows:

Successor Grantee’s acquisition of the Property (as defined in the Agreement) located in Contra Costa County, California, is not intended, and shall not serve, to satisfy any local, state or federal regulatory requirement (e.g., mitigation for any local, state or federal authorization or permit), including but not limited to complying with a biological opinion under Section 7 of the Endangered Species Act of 1973, 16 U.S.C. Section 1361 *et seq.*, as amended (“ESA”), or fulfilling commitments of a Habitat Conservation Plan under Section 10 of the ESA, provided that Property acquired with any Grant Funds will be preserved and managed in accordance with, and will fulfill certain commitments of, the ECCC NCCP/HCP, to the extent consistent with the Agreement.

Grantee and Successor Grantee make this Certificate with the understanding that if WCB enters into the Agreement and grants funds (as defined in the Agreement) to Grantee and Successor Grantee, WCB will do so in reliance on this Certificate.

Dated: _____, 20_____

GRANTEE

East Contra Costa County Habitat Conservancy

By: _____

Print Name: Abigail Fateman

Title: Interim Executive Director

SUCCESSOR GRANTEE

East Bay Regional Park District

By: _____

Print Name: Robert E. Doyle

Title: General Manager