

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

4600015327

PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of Water Resources

CONTRACTOR NAME

San Joaquin Area Flood Control Agency

2. The term of this Agreement is:

START DATE

July 1, 2023

THROUGH END DATE

December 31, 2025

3. The maximum amount of this Agreement is:

\$3,000,000.00 Three Million Dollars and No Cents

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

| Exhibits | Title | Pages |
|----------|--|-------|
| | Funding Agreement between The State of California Department of Water Resources and San Joaquin Area Flood Control Agency for the Paradise Cut Bypass Expansion and Multi-Benefit Project. | |
| | Signatures appear on page 9 of 30 in the attached Funding Agreement | |
| + | | |
| - | | |

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

CONTRACTOR BUSINESS ADDRESS

CITY

STATE

ZIP

PRINTED NAME OF PERSON SIGNING

TITLE

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

CONTRACTING AGENCY ADDRESS

Approved as to legal form
and sufficiency:

CITY

STATE

ZIP

PRINTED NAME OF PERSON SIGNING

Karen Jackson
for Asst. General Counsel, DWR

TITLE

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)



**STATE OF CALIFORNIA
CALIFORNIA NATURAL RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES**

Agreement Number: 4600015327

**FUNDING AGREEMENT BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES
AND
SAN JOAQUIN AREA FLOOD CONTROL AGENCY**

FOR THE PARADISE CUT BYPASS EXPANSION AND MULTI-BENEFIT PROJECT

A PART OF THE SYSTEMWIDE FLOOD RISK REDUCTION PROGRAM

**FUNDING AGREEMENT BETWEEN THE STATE OF CALIFORNIA (DEPARTMENT OF WATER
RESOURCES) AND**

SAN JOAQUIN AREA FLOOD CONTROL AGENCY

4600015327

THIS FUNDING AGREEMENT is entered into by and between the Department of Water Resources of the State of California, herein referred to as the "State" and the San Joaquin Area Flood Control Agency, a joint powers authority, in the State of California, duly organized, existing, and acting pursuant to the laws thereof, herein referred to as the "Funding Recipient," which parties do hereby agree as follows:

1. PURPOSE. State shall provide funding from the General Fund to Funding Recipient to assist in financing the Paradise Cut Bypass Expansion Multi-Benefit Project (Project) pursuant to Budget Act of 2022 (Stats. 2022, ch. 43, Item 3860-301-0001).
2. TERM OF FUNDING AGREEMENT. The term of this Funding Agreement begins on the date this Funding Agreement is initially executed by State, through final payment plus three (3) years unless otherwise terminated or amended as provided in this Agreement. However, all work shall be completed by December 31, 2025, and no funds may be requested after March 31, 2026.
3. PROJECT COST. The reasonable cost of the Project is estimated to be \$3,000,000.
4. FUNDING AMOUNT. The maximum amount payable by the State under this Agreement shall not exceed \$3,000,000.
5. BASIC CONDITIONS. State shall have no obligation to disburse money for the Project under this Funding Agreement until Funding Recipient has satisfied the following conditions:
 - A. For the term of this Funding Agreement, Funding Recipient submits timely Quarterly Progress Reports as required by Paragraph 12, "Submission of Reports."
 - B. Funding Recipient submits all deliverables as specified in Paragraph 12 of this Funding Agreement and in Exhibit A.
 - C. Prior to the commencement of construction or implementation activities, Funding Recipient shall submit the following to the State:
 - i. Work that is subject to the California Environmental Quality Act (CEQA) and or environmental permitting shall not proceed under this Funding Agreement until the following actions are performed:
 - a. Funding Recipient submits to the State all applicable environmental permits as indicated on the Environmental Information Form to the State,
 - b. Documents that satisfy the CEQA process are received by the State,
 - c. State has completed its CEQA compliance review as a Responsible Agency, and
 - d. Funding Recipient receives written concurrence from the State of Lead Agency's CEQA document(s) and State notice of verification of environmental permit submittal.

State's concurrence of Lead Agency's CEQA documents is fully discretionary and shall constitute a condition precedent to any work (i.e., construction or implementation activities) for which it is required. Once CEQA documentation has been completed, State will consider the environmental documents and decide whether to continue to fund the project or to require changes, alterations or other mitigation. Funding Recipient must also demonstrate that it has complied with all applicable requirements of the National Environmental Policy Act (NEPA) by submitting copies of any environmental documents, including environmental impact statements, Finding of No Significant Impact, mitigation monitoring

programs, and environmental permits as may be required prior to beginning construction/implementation.

6. DISBURSEMENT OF FUNDS. State will disburse to Funding Recipient the amount approved, subject to the availability of funds through normal State processes. Notwithstanding any other provision of this Funding Agreement, no disbursement shall be required at any time or in any manner which is in violation of, or in conflict with, federal or state laws, rules, or regulations. Any and all money disbursed to Funding Recipient under this Funding Agreement shall be deposited in a separate account and shall be used solely to pay Eligible Project Costs.
7. ELIGIBLE PROJECT COST. Funding Recipient shall apply State funds received only to Eligible Project Costs in accordance with applicable provisions of the law and Exhibit B. Eligible Project Costs include the reasonable costs of studies, engineering, design, land and easement acquisition, legal fees, preparation of environmental documentation, environmental mitigations, monitoring, and project construction. Reimbursable administrative expenses are the necessary costs incidental but directly related to the Project included in this Agreement. Work performed on the Project after the date of execution shall be eligible for reimbursement.

Costs that are not eligible for reimbursement include, but are not limited to the following items:

- A. Costs, other than those noted above, incurred prior to the award date of this Funding Agreement
 - B. Operation and maintenance costs, including post construction performance and monitoring costs.
 - C. Purchase of equipment not an integral part of the Project.
 - D. Establishing a reserve fund.
 - E. Purchase of water supply.
 - F. Monitoring and assessment costs for efforts required after project construction is complete.
 - G. Replacement of existing funding sources for ongoing programs.
 - H. Support of existing agency requirements and mandates (e.g., punitive regulatory agency requirement).
 - I. Purchase of land in excess of the minimum required acreage necessary to operate as an integral part of a project, as set forth and detailed by engineering and feasibility studies.
 - J. Overhead and indirect costs. "Indirect Costs" means those costs that are incurred for a common or joint purpose benefiting more than one cost objective and are not readily assignable to the funded project (i.e., costs that are not directly related to the funded project). Examples of Indirect Costs include, but are not limited to: central service costs; general administration of the Funding Recipient; non-project-specific accounting and personnel services performed within the Funding Recipient's organization; depreciation or use allowances on buildings and equipment; the costs of operating and maintaining non-project-specific facilities; tuition and conference fees; and, generic overhead or markup. This prohibition applies to the Funding Recipient and any subcontract or sub-agreement for work on the Project that will be reimbursed pursuant to this Agreement.
 - K. Payment of Federal and State taxes.
 - L. Costs incurred as part of any necessary response and cleanup activities required under the Comprehensive Environmental Response, Compensation, and Liability Act; Resource Conservation and Recovery Act; Hazardous Substances Account Act; or other applicable law.
8. METHOD OF PAYMENT. After the disbursement requirements in Paragraph 5 "Basic Conditions" are met, State will disburse the whole or portions of State funding to Funding Recipient, following receipt from Funding Recipient via US mail or Express mail delivery of a "wet signature" invoice, or an electronic invoice certified and transmitted via DocuSign for costs incurred, including Cost Share, and timely Quarterly Progress Reports as required by Paragraph 12, "Submission of Reports." Payment will be made no more frequently than quarterly, in arrears, upon receipt of an invoice bearing the Funding Agreement number.

State will notify Funding Recipient, in a timely manner, whenever, upon review of an Invoice, State determines that any portion or portions of the costs claimed are not eligible costs or is not supported by documentation or receipts acceptable to State. Funding Recipient may, within thirty (30) calendar days of the date of receipt of such notice, submit additional documentation to State to cure such deficiency(ies). If Funding Recipient fails to submit adequate documentation curing the deficiency(ies), State will adjust the pending invoice by the amount of ineligible or unapproved costs.

Invoices submitted by Funding Recipient shall include the following information:

- A. Costs incurred for work performed in implementing the Project during the period identified in the particular invoice.
- B. Costs incurred for any interests in real property (land or easements) that have been necessarily acquired for roject during the period identified in the particular invoice for the implementation of the Project.
- C. Invoices shall be submitted on forms provided by State and shall meet the following format requirements:
 - i. Invoices must contain the date of the invoice, the time period covered by the invoice, and the total amount due.
 - ii. Invoices must be itemized based on the categories (i.e., tasks) specified in Exhibit B. The amount claimed for salaries/wages/consultant fees must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = the total amount claimed).
 - iii. One set of sufficient evidence (i.e., receipts, copies of checks, time sheets) must be provided for all costs included in the invoice.
 - iv. Each invoice shall clearly delineate those costs claimed for reimbursement from the State's funding amount, as depicted in Paragraph 4, "Funding Amount" and those costs that represent Funding Recipient's costs, as applicable.
 - v. Original signature and date (in ink) of Funding Recipient's Project Representative. Submit the original "wet signature" copy of the invoice form to the following address: Jesus Esparza, DWR Systemwide Multibenefit Improvements (SMI) Branch 6th Floor, 715 P Street, Sacramento, CA 95814 or an electronic signature certified and transmitted via DocuSign from authorized representative to Jesus Esparza, DWR SMI Branch.

All invoices submitted shall be accurate and signed under penalty of law. Any and all costs submitted pursuant to this Agreement shall only be for the tasks set forth herein. The Funding Recipient shall not submit any invoice containing costs that are ineligible or have been reimbursed from other funding sources. Any eligible costs for which the Funding Recipient is seeking reimbursement shall not be reimbursed from any other source. Double or multiple billing for time, services, or any other eligible cost is illegal and constitutes fraud. Any suspected occurrences of fraud, forgery, embezzlement, theft, or any other misuse of public funds may result in suspension of disbursements of grant funds and/or termination of this Agreement requiring the repayment of all funds disbursed hereunder plus interest. Additionally, the State may request an audit pursuant to Paragraph D.5 and refer the matter to the Attorney General's Office or the appropriate district attorney's office for criminal prosecution or the imposition of civil liability. (Civ. Code, §§ 1572-1573; Pen. Code, §§ 470, 487-489.)

9. WITHHOLDING OF DISBURSEMENTS BY STATE. If State determines that the Project is not being implemented in accordance with the provisions of this Funding Agreement, or that Funding Recipient has failed in any other respect to comply with the provisions of this Funding Agreement, and if Funding Recipient does not remedy any such failure to State's satisfaction, State may withhold from Funding Recipient all or any portion of the State funding and take any other action that it deems necessary to protect its interests. Where a portion of the State funding has been disbursed to the Funding Recipient and State notifies Funding Recipient of its decision not to release funds that have been withheld pursuant to

Paragraph 11, the portion that has been disbursed shall thereafter be repaid immediately, as directed by State. State may consider Funding Recipient's refusal to repay the requested disbursed amount a contract breach subject to the default provisions in Paragraph 10, "Default Provisions." If State notifies Funding Recipient of its decision to withhold the entire funding amount from Funding Recipient pursuant to this paragraph, this Funding Agreement shall terminate upon receipt of such notice by Funding Recipient and the State shall no longer be required to provide funds under this Funding Agreement and the Funding Agreement shall no longer be binding on either party.

10. DEFAULT PROVISIONS. Funding Recipient will be in default under this Funding Agreement if any of the following occur:

- A. Substantial breaches of this Funding Agreement, or any supplement or amendment to it, or any other agreement between Funding Recipient and State evidencing or securing Funding Recipient's obligations;
- B. Making any false warranty, representation, or statement with respect to this Funding Agreement or the application filed to obtain this Funding Agreement;
- C. Failure to operate or maintain the Project in accordance with this Funding Agreement.
- D. Failure to make any remittance required by this Funding Agreement, including any remittance recommended as the result of an audit conducted pursuant to Paragraph D.5.
- E. Failure to submit timely progress reports.
- F. Failure to routinely invoice State.
- G. A determination pursuant to Government Code section 11137 that the Funding Recipient has violated any of the following: Government Code sections 11135 or 12960 et seq.; Civil Code sections 51-54.2, inclusive; or any regulations adopted to implement these sections.
- H. Failure to meet any of the requirements set forth in Paragraph 11, "Continuing Eligibility."

Should an event of default occur, State shall provide a notice of default to the Funding Recipient and shall give Funding Recipient at least ten (10) calendar days to cure the default from the date the notice is sent via first-class mail to the Funding Recipient. If the Funding Recipient fails to cure the default within the time prescribed by the State, State may do any of the following:

- A. Declare the funding be immediately repaid.
- B. Terminate any obligation to make future payments to Funding Recipient.
- C. Terminate the Funding Agreement.
- D. Take any other action that it deems necessary to protect its interests.

In the event State finds it necessary to enforce this provision of this Funding Agreement in the manner provided by law, Funding Recipient agrees to pay all costs incurred by State including, but not limited to, reasonable attorneys' fees, legal expenses, and costs.

11. CONTINUING ELIGIBILITY. Funding Recipient must meet the following ongoing requirement(s) to remain eligible to receive State funds:

- A. Grantee must adhere to the protocols developed pursuant to The Open and Transparent Water Data Act (Wat. Code, § 12406) for data sharing, transparency, documentation, and quality control.
- B. On March 4, 2022, the Governor issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. The EO may be found at: <https://www.gov.ca.gov/wp-content/uploads/2022/03/3.4.22-Russia-Ukraine-Executive-Order.pdf>. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under State law. The EO directs DWR to terminate funding agreements with, and to refrain from entering any new agreements with, individuals

or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine that the Funding Recipient is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this Agreement. The State shall provide the Funding Recipient advance written notice of such termination, allowing the Funding Recipient at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.

12. SUBMISSION OF REPORTS. The submittal and approval of all reports is a requirement for the successful completion of this Funding Agreement. Reports shall meet generally accepted professional standards for technical reporting and shall be proofread for content, numerical accuracy, spelling, and grammar prior to submittal to State. All reports shall be submitted to the State's Project Manager, and shall be submitted via DWR's "Grant Review and Tracking System" (GRanTS). If requested, Funding Recipient shall promptly provide any additional information deemed necessary by State for the approval of reports. Reports shall be presented in the formats described in the applicable portion of Exhibit F. The timely submittal of reports is a requirement for initial and continued disbursement of State funds. Submittal and subsequent approval by the State, of a Project Completion Report is a requirement for the release of any funds retained for such project.
- A. Quarterly Progress Reports: Funding Recipient shall submit Quarterly Progress Reports to meet the State's requirement for disbursement of funds. Quarterly Progress Reports shall be shall be uploaded via GRanTS, and the State's Project Manager notified of upload. Quarterly Progress Reports shall, in part, provide a brief description of the work performed, Funding Recipients activities, milestones achieved, any accomplishments and any problems encountered in the performance of the work under this Funding Agreement during the reporting period. The first Quarterly Progress Report should be submitted to the State no later than October 1, 2023, with future reports then due on successive three-month increments based on the invoicing schedule and this date.
- B. Project Completion Reports: Funding Recipient shall prepare and submit to State a Project Completion Report. Funding Recipient shall submit the Project Completion Report within ninety (90) calendar days of Project completion. The Project Completion Report shall include, in part, a description of actual work done, any changes or amendments to the Project, and a final schedule showing actual progress versus planned progress, copies of any final documents or reports generated or utilized during the Project. A DWR "Certification of Project Completion" form will be provided by the State.
13. NOTIFICATION OF STATE. Funding Recipient shall promptly notify State, in writing, of the following items:
- A. Events or proposed changes that could affect the scope, budget, or work performed under this Funding Agreement. Funding Recipient agrees that no substantial change in the scope of a project will be undertaken until written notice of the proposed change has been provided to State and State has given written approval for such change. Substantial changes generally include changes to the scope of work, schedule or term, and budget.
- B. Any public or media event publicizing the accomplishments and/or results of this Funding Agreement and provide the opportunity for attendance and participation by State's representatives. Funding Recipient shall make such notification at least 14 calendar days prior to the event.
- C. Discovery of any potential archaeological or historical resource. Should a potential archaeological or historical resource be discovered during construction, the Funding Recipient agrees that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the State has determined what actions should be taken to protect and preserve the resource. The Funding Recipient agrees to implement appropriate actions as directed by the State.
- D. The initiation of any litigation or the threat of litigation against the Funding Recipient regarding the Project or that may affect the Project in any way.

14. NOTICES. Any notice, demand, request, consent, or approval that either party desires or is required to give to the other party under this Funding Agreement shall be in writing. Notices may be transmitted by any of the following means:
- A. By delivery in person.
 - B. By certified U.S. mail, return receipt requested, postage prepaid.
 - C. By “overnight” delivery service; provided that next-business-day delivery is requested by the sender.
 - D. By electronic means.
 - E. Notices delivered in person will be deemed effective immediately on receipt (or refusal of delivery or receipt). Notices sent by certified mail will be deemed effective given ten (10) calendar days after the date deposited with the U. S. Postal Service. Notices sent by overnight delivery service will be deemed effective one business day after the date deposited with the delivery service. Notices sent electronically will be effective on the date of transmission, which is documented in writing. Notices shall be sent to the below addresses. Either party may, by written notice to the other, designate a different address that shall be substituted for the one below.

15. PROJECT REPRESENTATIVES. The Project Representatives during the term of this Funding Agreement are as follows:

Department of Water Resources
Jesus Esparza, Senior Engineer,
DWR SMI Branch
715 P Street, 6th Floor,
Sacramento, CA 95814
jesus.esparza@water.ca.gov

SJAFCA Representative
Chris Elias, Executive Director
22 E Weber Ave, #301
Stockton, CA 95202
Chris.Elias@stocktonca.gov

Direct all inquiries to the Project Manager:

Department of Water Resources
Jesus Esparza, Senior Engineer,
DWR SMI Branch
715 P Street, 6th Floor,
Sacramento, CA 95814
jesus.esparza@water.ca.gov

SJAFCA PM
Glenn Prasad, Deputy Executive Director
22 E Weber Ave, #301
Stockton, CA 95202
glenn.prasad@stocktonca.gov

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

16. STANDARD PROVISIONS AND INTEGRATION. This Funding Agreement is complete and is the final Agreement between the parties. The following Exhibits are attached and made a part of this Funding Agreement by this reference:

Exhibit A – Work Plan

Exhibit B – Budget

Exhibit C – Schedule

Exhibit D – Standard Conditions

Exhibit E – Funding Recipient Resolution

Exhibit F – Report Formats and Requirements


Exhibit G – State Audit Document Requirements for Funding Recipients

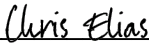
Exhibit H – Project Location

IN WITNESS WHEREOF, the parties hereto have executed this Funding Agreement.

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

SAN JOAQUIN AREA FLOOD CONTROL AGENCY


Steve Rothert
Manager, Division of Multibenefit Initiatives
Date 6/21/2023


Chris Elias
Executive Director
Date 6/21/2023

Approved as to Legal Form and Sufficiency

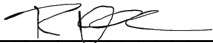

Robin Brewer, Assistant General Counsel
Office of General Counsel
Date 6/19/2023

Exhibit A

WORK PLAN

Project Description

The Project incorporates an expanded flood bypass, channel dredging to increase water supply reliability for in-Delta users, and floodplain, wetland, and riparian habitat enhancements to help restore the landscape-scale ecosystem functions necessary for climate change resilience. The expanded flood bypass is estimated to reduce river flood stage by 0.7 – 3.0 feet along a 28-mile corridor of the San Joaquin River adjacent to Manteca, Lathrop, and Stockton. The restoration of channel depth in Old River, Middle River, and Grant Line Canal, currently the focus of a detailed study to identify the scope of needed improvements and costs, will remedy unaddressed historical and ongoing siltation in the southern Delta affecting net flow in channels, irrigation intake pump reliability, waterway navigation, water quality, exports from the Delta, and prevalence of nonnative species. Habitat enhancements will restore ecosystem functions vital to climate change resilience, such as refuge, foraging and migratory connectivity habitat that will benefit Swainson's hawk, riparian brush rabbit, and riparian songbirds. The Project also provides additional floodplain adjacent to the San Joaquin River upstream and downstream of Paradise Cut to enable juvenile salmon rearing habitat restoration that may otherwise be prohibited due to perceived encroachment on flood conveyance capacity.

The Project is consistent with the following multiple benefit objectives for southern Delta communities and ecosystems:

- Reduce catastrophic flood risk for communities including Lathrop, Manteca, and Stockton
- Protect farms from uncontrolled flooding
- Restore riverine, floodplain, riparian, and wetland habitat for native fish and wildlife
- Improve irrigation intake reliability and waterway navigability
- Improve water supply reliability and resilience to climate change by supporting more flexible water supply management

Task 1 – Project Management and Administration

The Funding Recipient will serve as the project and grant manager and will be responsible for consultant procurement, contract management, project schedule development and maintenance, project-level finance planning, cash flow analysis, developing the Quality Management Plan (QMP), creation of Steering Committee (SC), and creation and facilitation of the Paradise Cut Management Team (PCMT), whose members will include current Phase 2 Planning Team members. The PCMT will be responsible for administering the selection of the Technical Review Panel (Task 2). All draft and final reports shall be submitted to the State's Project Manager and shall be submitted via DWR's "Grant Review and Tracking System" (GranTS).

Deliverables:

- Paradise Cut Management Team and its Governance Structure Charter, consisting of scope, authority, members, decision making process, escalation process, etc.
- Facilitate monthly PCMT meetings with associated notes, and summaries
- Quality Management Plan
- Quarterly invoices and Progress Reports
- Consultant procurement
- Project Completion Report
- Post-Performance Report
- Memo identifying implementation plan and funding opportunities, to include:
 - Scope of work for next phase, and schedule and range of cost estimates for implementing phased restoration

Task 2 – Technical Review Panel

The Funding Recipient will establish and retain an independent panel of experts evaluate technical analyses performed to date, identify any pertinent technical shortcomings of this work, make recommendations on additional technical analyses or model updates required to advance the Project, and review technical products produced under this scope of work. This panel will be comprised of individuals with experience relevant to the objectives of the Project and experience in the San Joaquin River and Delta systems. The Funding Recipient, working within a collaborative selection process administered by the PCMT (see Task 1), will select and retain a (final number to be determined) Technical Review Panel (TRP) comprised of independent technical experts to meet this objective as well as to comply with anticipated U.S. Army Corps of Engineers (USACE) Safety Assurance Reviews and Urban Levee Design Criteria guidelines in future phases of work. The TRP will review grant deliverables as outlined by the QMP (see Task 1). In addition to these responsibilities, the TRP will specifically review the base data and hydraulic model used in American Rivers' Phase I Planning Project to evaluate performance of conceptual alternatives, stage reduction benefits and potential downstream impacts, and provide recommendations on additional data collection, or model modifications needed. This task will be coordinated with a nascent effort by South Delta Water Agency and DWR to conduct annual southern Delta channel surveys for the purposes of hydraulic model validation for the southern Delta.

Deliverables:

- Select and retain Technical Review Panel
- Technical Memo: Base Data and Hydraulic Model Evaluation and Recommendations
- Technical Review Panel meetings
- Summary Reports on technical analyses completed to date

Task 3 – Strategic Outreach and Local Engagement

The input and support of interested parties, and the engagement of community members, non-governmental organizations, and state and federal agencies is critical to the expeditious and successful implementation of the Project. In December 2021, the Funding Recipient's Board authorized entry into a memorandum of understanding (MOU) with several local interested parties affirming the Funding Recipient as the Lead for the Project. As part of this MOU, representatives of a local coalition that have previously worked on the Project would participate in an advisory committee. The goal of this task is to continue to engage historically interested parties, expand the number and diversity of interested parties, and to solicit input on project alternative formulation and Project planning. This task will include selecting and retaining an independent facilitator through a collaborative selection process including members of the PCMT and Advisory Committee to bring the interested parties together and communicate information to the public. Outreach and engagement will integrate and support the Steering Committee and Governance Charter (see Task 1).

Deliverables (to be prepared by selected facilitator):

- Engagement Strategy
- Facilitate Grantee Advisory Committee meetings as necessary with meeting notes and summaries
- General outreach to the public and interested parties, including informational workshops, with efforts documented and submitted quarterly.

Task 4 – Feasibility Study

The goal of this task is to complete a Feasibility Study. Its structure will be based on the DWR Feasibility Study Framework where appropriate, to create a foundational compilation of analyses, knowledge, and design alternatives evaluation used to advance subsequent phases of the Project. Elements of the Feasibility Study Framework have already been completed, in part or in full, during multiple phases of grant-funded Paradise Cut planning efforts. This task will complete remaining elements of the Feasibility Study Framework, including development, evaluation, and selection of preliminary project alternatives to prepare the Project for environmental compliance and advanced design stages in a subsequent project phase.

The Feasibility Study may include, but will not necessarily be limited to, the sections included in the DWR Feasibility Study Framework. Document sections listed below under Task 4 – Feasibility Study are structured to align with sections of the DWR Feasibility Study Framework below:

- (1) Introduction
 - a. Project Setting
 - b. Project Background/History
 - c. Project Description
 - d. Other Related Studies and Reports
 - e. Interested Parties Engagement
 - f. Report Organization
- (2) Inventory and Forecast
 - a. Present Conditions
 - b. Forecast – Future Without-Project Conditions
- (3) Problems and Opportunities
 - a. Opportunities
- (4) Goals & Objectives
 - a. Other Considerations
 - b. Constraints
- (5) Formulation of Preliminary Alternatives
- (6) Evaluation and Comparison of Final Array of Alternatives
- (7) Recommendation and Implementation
- (8) Project Financial Plan
- (9) Recommended Next Steps

Introduction

This introduction will include Feasibility Study sections covering project setting, background, description, related studies and reports, and outline a strategy for engagement of interested parties (see Task 3 for development of this strategy). These document sections will be developed using Project planning documents completed to date, which include:

- Local Engagement Summaries
- Existing Conditions Technical Memo
- Technical Memo: Development and Calibration of Central Valley Flood Evaluation and Delineation (CVFED) September 28, 2018 Based Lower San Joaquin River HEC-RAS model
- Restoration Opportunities Tech Memo
- Paradise Cut Conceptual Model Tech Memo
- Permitting Strategy Tech Memo
- Preliminary Cost Estimate
- Local Engagement Strategy
- Existing and Needed Technical Analyses Tech Memo
- Avoidance and Mitigation Strategy
- Long-term Monitoring and Maintenance Strategy

Inventory and Forecast

The goals of the inventory and forecast section are to: (1) summarize present conditions and future without-project conditions, and (2) advance technical studies determined to be necessary by Phase 2 analyses (as funding allows), strategic outreach and local engagement and recommendations of the TRP (see Task 2). It is anticipated that the TRP will support the SC in reviewing studies completed to-date and determining if additional studies are needed to advance the Project. In Phase 2 the Planning Team will identify additional needed technical studies which may include, but are not limited to:

- Baseline Surveys, including:
 - Wetland delineation, biological, cultural resources, conceptual geotechnical evaluation
- Sediment Transport Model supporting evaluation of project alternatives
- Water Quality Problems and Opportunities Analysis, including:
 - Summary of existing water quality problems and the causal factors and uncertainties; evaluation of how dredging could reduce or exacerbate these problems
- Incorporation of results and recommendations from an ongoing South Delta Dredging Feasibility Study

Problems and Opportunities

The purpose of the problems and opportunities section is to inform the identification and clear presentation of problems and opportunities given the existing conditions in the vicinity of the Project planning footprint. The problems and opportunities can then be used to guide development of the conceptual design as well as later design stages and environmental planning. At this time, the Phase 2 Planning Team has identified the following necessary topic areas to be covered in this section which include, but are not limited to:

- Avoidance and Mitigation Strategy, to include:
 - Building on work completed during Phase 2 to complete analyses to avoid or mitigate negative hydraulic or sediment impacts from the Project to downstream interests, including planning for dredging, and: 1) choose a method to increase channel capacity, 2) identify and prioritize anticipated mitigation requirements for dredging, 3) identify and prioritize anticipated mitigation requirements for water quality impacts, and 4) identify a method to reduce or maintain flood risk (if necessary, based on results from Task 4). This strategy will also identify mitigation opportunities in the *South Delta Master Plan*, currently being developed by the South Delta Water Agency during Phase 2.
- Land and Conservation Easement Acquisition Strategy:
 - Build on work completed during Phase 1 to complete a strategy to acquire flood and conservation easements for all affected land within the Project footprint, and: 1) Identify challenges and opportunities for acquisition (i.e., fee titles, easements, endowments), and 2) assess needs for eminent domain action, authority, and commitments
 - Build on Phase 2 to complete a Long-term Land Management Strategy.
- Lower San Joaquin Regional Mitigation Needs and Restoration Assessment:
 - Building on existing work completed by SJAFCA and River Partners, develop a proactive strategy to estimate necessary Project mitigation and comprehensively integrate the Project with regional mitigation needs, and projects

The Problems and Opportunities section of the Feasibility Study should evaluate constraints and opportunities previously identified by the Phase 2 Planning Team, which may include but are not limited to:

- Reinforcement or hardening of the Duel levee
- Confirm that a levee is not needed south of the Duel levee (some homes may need to be elevated)
- Rail trestle design
- Revisit the conclusion that existing bridge openings do not need to be expanded or reinforced
- Design the weir
- Design retrofit of pumps that currently drain the expansion area that are also critical for draining Duel
- Potential repurposing of the RD 2095 levee on the San Joaquin and associate opportunities and constraints
- Hydraulics of overflow weir dynamics

Goals and Objectives

The purpose of this section is to formulate planning goals and objectives that will allow the SC to address problems identified in Subtask 4.3, while capitalizing on opportunities to maximize multiple benefits and investment efficiency. Planning goals and objectives must be directly related to the problems and opportunities identified and must be clearly defined and provide information on the effect desired.

The objectives for the Feasibility Study must be specific and measurable and should reflect the desired outcome of the project, including alignment with commitments to Integrated Watershed Management, State interest, DWR policy directions, and any specific goals and objectives established by authorizing or appropriations language for the study.

Formulation of Preliminary Alternatives

The purpose of this section is to formulate various ways to achieve the goals and objectives developed in the Goals and Objectives section, so as to solve the problems and realize the opportunities identified in the Problems and Opportunities section. An alternative plan consists of a system of structural and/or nonstructural measures, strategies, or programs formulated to meet, fully or partially, the identified study planning objectives subject to the planning constraints. The SC will formulate a range of alternative plans that can then be screened and refined in subsequent iterations throughout the planning process.

Alternatives Evaluation

The purpose of this section is to complete a comparison of the with-project and without-project conditions for each alternative. A wide range of measures will be selected to complete this comparison and will reflect DWR's commitment to integrated watershed management. Analyses may suggest opportunities for further refinement of alternative plans or changes in configurations to improve the tradeoff between multiple benefits, leading to selection of a preferred alternative.

Deliverables

- Baseline Surveys
- Sediment Transport Model
- Water Quality Problems and Opportunities Analysis
- Avoidance and Mitigation Strategy
- Land and Conservation Easement Acquisition Strategy
- Lower San Joaquin Regional Mitigation Needs and Restoration Assessment
- Project Financing Strategy

Task 5 – Preliminary Engineering and Landscape Designs

The goal of this task is to finalize preliminary designs and engineers cost estimate (10%) for the preferred alternative including landscape-scale plans for multiple-benefit ecosystem restoration in the Project footprint. Preliminary Design for the Preferred Alternative will be used to support initial review by the PMCT and interested parties, and to support environmental compliance (i.e., CEQA review).

The Preliminary Design will be based on Feasibility Study and interim products (Task 4), and any further early feedback communicated by PMCT. The PMCT, IRP, and Advisory Committee will have an opportunity to provide feedback on the Preliminary Design prior to finalization as described in the QMP developed in Task 1. The Preliminary Design will articulate the scope and scale of the Project, identify site extents, restoration layout and elements, project constraints and limits. The Preliminary Design will show the general dimensions and design elevations of enhanced weir connection(s), and proposed channel restoration areas.

Deliverables:

- Preliminary designs and Engineers Cost Estimate (PDF and native electronic file format – CAD and/or GIS)

Exhibit B**BUDGET**
San Joaquin Area Flood Control Agency
Paradise Cut Expansion and Multi-Benefit Project

| Plan Elements | Estimated Costs |
|---|------------------------|
| Task 1 - Project Management and Administration | \$425,000.00 |
| Task 2 - Technical Review Panel | \$175,000.00 |
| Task 3 - Strategic Outreach and Local Engagement | \$350,000.00 |
| Task 4 - Feasibility Study | \$1,750,000.00 |
| Task 5 - Preliminary Engineering and Landscape Designs | \$300,000.00 |
| TOTAL | \$3,000,000.00 |

Exhibit C SCHEDULE

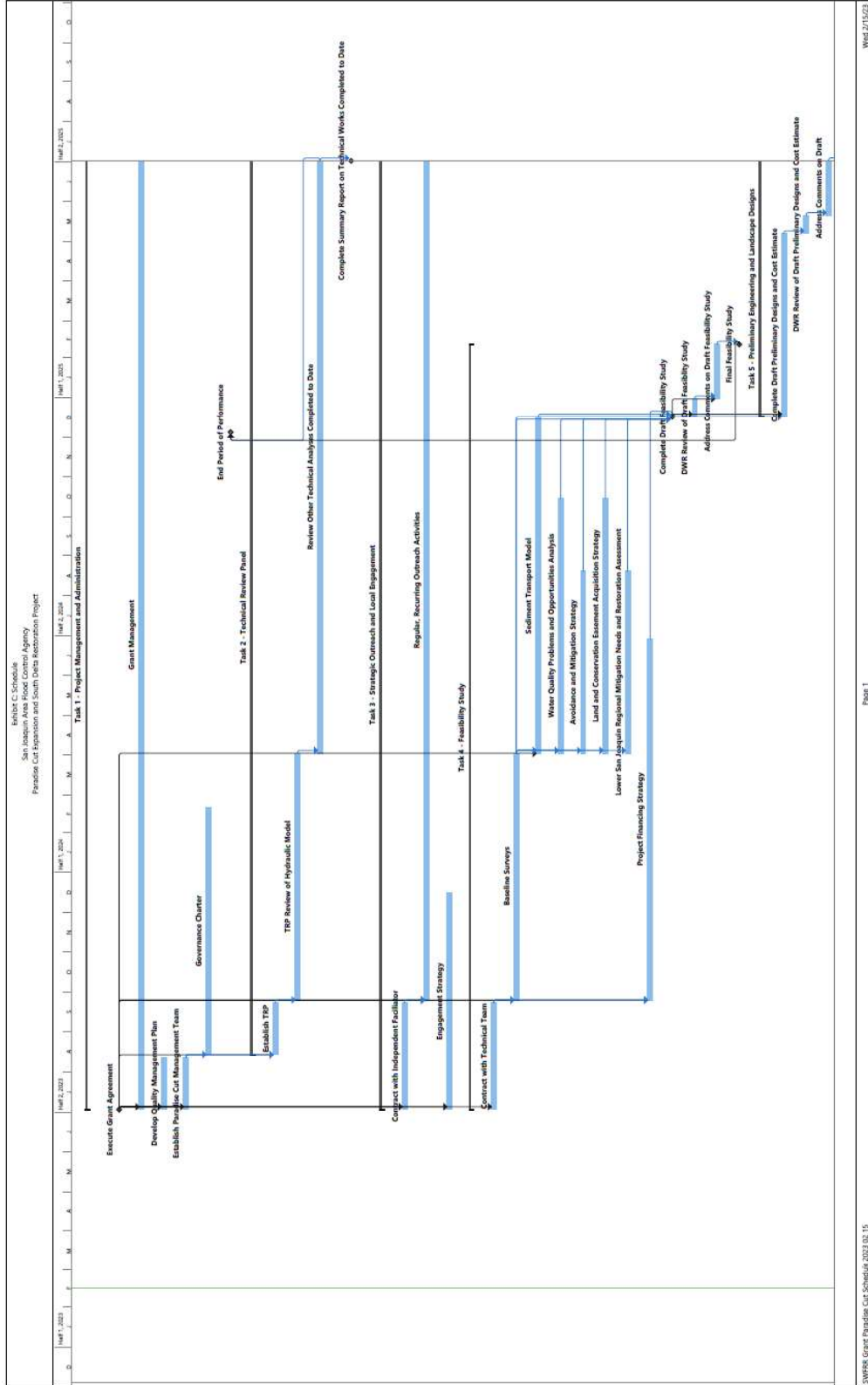


Exhibit D
STANDARD CONDITIONS

D.1. ACCOUNTING AND DEPOSIT OF FUNDING DISBURSEMENT:

- A. **Separate Accounting of Funding Disbursements:** Funding Recipient shall account for the money disbursed pursuant to this Funding Agreement separately from all other Funding Recipient funds. Funding Recipient shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. Funding Recipient shall keep complete and accurate records of all receipts and disbursements on expenditures of such funds. Funding Recipient shall require its contractors or subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by State at any and all reasonable times.
- B. **Disposition of Money Disbursed:** All money disbursed pursuant to this Funding Agreement shall be deposited in a separate account, administered, and accounted for pursuant to the provisions of applicable law.
- C. **Remittance of Unexpended Funds:** Funding Recipient shall remit to State any unexpended funds that were disbursed to Funding Recipient under this Funding Agreement and were not used to pay Eligible Project Costs within a period of sixty (60) calendar days from the final disbursement from State to Funding Recipient of funds or, within thirty (30) calendar days of the expiration of the Funding Agreement, whichever comes first.

D.2. ACKNOWLEDGEMENT OF CREDIT AND SIGNAGE: Funding Recipient shall include appropriate acknowledgement of credit to the State for its support when promoting the Project or using any data and/or information developed under this Funding Agreement. Signage shall be posted in a prominent location at Project site(s) (if applicable) or at the Funding Recipient's headquarters and shall include the Department of Water Resources color logo and the following disclosure statement: "Funding for this project has been provided in full or in part from the Budget Act of 2022 and through an agreement with the State Department of Water Resources." The Funding Recipient shall also include in each of its contracts for work under this Agreement a provision that incorporates the requirements stated within this Paragraph.

D.3. AMENDMENT: This Funding Agreement may be amended at any time by mutual agreement of the Parties, except insofar as any proposed amendments are in any way contrary to applicable law. Requests by the Funding Recipient for amendments must be in writing stating the amendment request and the reason for the request. Requests solely for a time extension must be submitted at least 90 days prior to the work completion date set forth in Paragraph 2. Any other request for an amendment must be submitted at least 180 days prior to the work completion date set forth in Paragraph 2. State shall have no obligation to agree to an amendment.

D.4. AMERICANS WITH DISABILITIES ACT: By signing this Funding Agreement, Funding Recipient assures State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. § 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

D.5. AUDITS: State reserves the right to conduct an audit at any time between the execution of this Funding Agreement and the completion of the Project, with the costs of such audit borne by State. After completion of the Project, State may require Funding Recipient to conduct a final audit to State's specifications, at Funding Recipient's expense, such audit to be conducted by and a report prepared by an independent Certified Public Accountant. Failure or refusal by Funding Recipient to comply with this provision shall be considered a breach of this Funding Agreement, and State may elect to pursue any remedies provided in Paragraph 10 or take any other action it deems necessary to protect its interests. The Funding Recipient agrees it shall return any audit disallowances to the State.

Pursuant to Government Code section 8546.7, the Funding Recipient shall be subject to the examination and audit by the State for a period of three (3) years after final payment under this Funding Agreement with respect of all matters connected with this Funding Agreement, including but not limited to, the cost of administering this Funding Agreement. All records of Funding Recipient or its contractor or subcontractors shall be preserved for this purpose for at least three (3) years after receipt of the final disbursement under this Agreement.

- D.6. BUDGET CONTINGENCY: If the Budget Act of the current year covered under this Funding Agreement does not appropriate sufficient funds for this program, this Funding Agreement shall be of no force and effect. This provision shall be construed as a condition precedent to the obligation of State to make any payments under this Funding Agreement. In this event, State shall have no liability to pay any funds whatsoever to Funding Recipient or to furnish any other considerations under this Funding Agreement and Funding Recipient shall not be obligated to perform any provisions of this Funding Agreement. Nothing in this Funding Agreement shall be construed to provide Funding Recipient with a right of priority for payment over any other Funding Recipient. If funding for any fiscal year after the current year covered by this Funding Agreement is reduced or deleted by the Budget Act, by Executive Order, or by order of the Department of Finance, the State shall have the option to either cancel this Funding Agreement with no liability occurring to State, or offer a Funding Agreement amendment to Funding Recipient to reflect the reduced amount.
- D.7. CALIFORNIA CONSERVATION CORPS: Funding Recipient may use the services of the California Conservation Corps or other community conservation corps as defined in Public Resources Code section 14507.5.
- D.8. CEQA: Activities funded under this Funding Agreement, regardless of funding source, must be in compliance with the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21000 et seq.) Any work that is subject to CEQA and funded under this Agreement shall not proceed until documents that satisfy the CEQA process are received by the State's Project Manager and the State has completed its CEQA compliance. Work funded under this Agreement that is subject to a CEQA document shall not proceed until and unless approved by the Department of Water Resources. Such approval is fully discretionary and shall constitute a condition precedent to any work for which it is required. If CEQA compliance by the Funding Recipient is not complete at the time the State signs this Agreement, once State has considered the environmental documents, it may decide to require changes, alterations, or other mitigation to the Project; or to not fund the Project. Should the State decide to not fund the Project, this Agreement shall be terminated in accordance with Paragraph 10.
- D.9. CHILD SUPPORT COMPLIANCE ACT: The Funding Recipient acknowledges in accordance with Public Contract Code section 7110, that:
- A. The Funding Recipient recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Family Code section 5200 et seq.; and
 - B. The Funding Recipient, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- D.10. CLAIMS DISPUTE: Any claim that the Funding Recipient may have regarding performance of this Agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the DWR Project Representative, within thirty (30) days of the Funding Recipient's knowledge of the claim. State and Funding Recipient shall then attempt to negotiate a resolution of such claim and process an amendment to this Agreement to implement the terms of any such resolution.
- D.11. COMPETITIVE BIDDING AND PROCUREMENTS: Funding Recipient's contracts with other entities for the acquisition of goods and services and construction of public works with funds provided by State

under this Funding Agreement must be in writing and shall comply with all applicable laws and regulations regarding the securing of competitive bids and undertaking competitive negotiations. If the Funding Recipient does not have a written policy to award contracts through a competitive bidding or sole source process, the Department of General Services' *State Contracting Manual* rules must be followed and are available at: <https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/State-Contracting>.

- D.12. **COMPUTER SOFTWARE:** Funding Recipient certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Funding Agreement for the acquisition, operation, or maintenance of computer software in violation of copyright laws.
- D.13. **CONFLICT OF INTEREST:** All participants are subject to State and Federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Applicable statutes include, but are not limited to, Government Code section 1090 and Public Contract Code sections 10410 and 10411, for State conflict of interest requirements.
- A. **Current State Employees:** No State officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency, unless the employment, activity, or enterprise is required as a condition of regular State employment. No State officer or employee shall contract on his or her own behalf as an independent contractor with any State agency to provide goods or services.
- B. **Former State Employees:** For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency. For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving State service.
- C. **Employees of the Funding Recipient:** Employees of the Funding Recipient shall comply with all applicable provisions of law pertaining to conflicts of interest, including but not limited to any applicable conflict of interest provisions of the California Political Reform Act. (Gov. Code, § 87100 et seq.)
- D. **Employees and Consultants to the Funding Recipient:** Individuals working on behalf of a Funding Recipient may be required by the Department to file a Statement of Economic Interests (Fair Political Practices Commission Form 700) if it is determined that an individual is a consultant for Political Reform Act purposes.
- D.14. **DELIVERY OF INFORMATION, REPORTS, AND DATA:** Funding Recipient agrees to expeditiously provide throughout the term of this Funding Agreement, such reports, data, information, and certifications as may be reasonably required by State.
- D.15. **DISPOSITION OF EQUIPMENT:** Funding Recipient shall provide to State, not less than 30 calendar days prior to submission of the final invoice, an itemized inventory of equipment purchased with funds provided by State. The inventory shall include all items with a current estimated fair market value of more than \$5,000.00 per item. Within 60 calendar days of receipt of such inventory State shall provide Funding Recipient with a list of the items on the inventory that State will take title to. All other items shall become the property of Funding Recipient. State shall arrange for delivery from Funding Recipient of items that it takes title to. Cost of transportation, if any, shall be borne by State.
- D.16. **DRUG-FREE WORKPLACE CERTIFICATION:** Certification of Compliance: By signing this Funding Agreement, Funding Recipient, its contractors or subcontractors hereby certify, under penalty of perjury under the laws of State of California, compliance with the requirements of the Drug-Free Workplace Act

of 1990 (Gov. Code, § 8350 et seq.) and have or will provide a drug-free workplace by taking the following actions:

- A. Publish a statement notifying employees, contractors, and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors, or subcontractors for violations, as required by Government Code section 8355.
- B. Establish a Drug-Free Awareness Program, as required by Government Code section 8355 to inform employees, contractors, or subcontractors about all of the following:
 - i. The dangers of drug abuse in the workplace,
 - ii. Funding Recipient's policy of maintaining a drug-free workplace,
 - iii. Any available counseling, rehabilitation, and employee assistance programs, and
 - iv. Penalties that may be imposed upon employees, contractors, and subcontractors for drug abuse violations.
- C. Provide, as required by Government Code section 8355, that every employee, contractor, and/or subcontractor who works under this Funding Agreement:
 - i. Will receive a copy of Funding Recipient's drug-free policy statement, and
 - ii. Will agree to abide by terms of Funding Recipient's condition of employment, contract or subcontract.

D.17. FUNDING RECIPIENT'S RESPONSIBILITIES: Funding Recipient and its representatives shall:

- A. Faithfully and expeditiously perform or cause to be performed all project work as described in Exhibit A (Work Plan) and in accordance with Project Exhibit B (Budget) and Exhibit C (Schedule).
- B. Accept and agree to comply with all terms, provisions, conditions, and written commitments of this Funding Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and statements made by Funding Recipient in the application, documents, amendments, and communications filed in support of its request for funding.
- C. Comply with all applicable California, federal, and local laws and regulations.
- D. Implement the Project in accordance with applicable provisions of the law.
- E. Fulfill its obligations under the Funding Agreement and be responsible for the performance of the Project.
- F. Obtain any and all permits, licenses, and approvals required for performing any work under this Funding Agreement, including those necessary to perform design, construction, or operation and maintenance of the Project. Funding Recipient shall provide copies of permits and approvals to State.
- G. Be solely responsible for design, construction, and operation and maintenance of projects within the work plan. Review or approval of plans, specifications, bid documents, or other construction documents by State is solely for the purpose of proper administration of funds by State and shall not be deemed to relieve or restrict responsibilities of Funding Recipient under this Agreement.
- H. Be solely responsible for all work and for persons or entities engaged in work performed pursuant to this Agreement, including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The Funding Recipient shall be responsible for any and all disputes arising out of its contracts for work on the Project, including but not limited to payment disputes with contractors and subcontractors. The State will not mediate disputes between the Funding Recipient and any other entity concerning responsibility for performance of work.

- D.18. **GOVERNING LAW:** This Funding Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.
- D.19. **INCOME RESTRICTIONS:** The Funding Recipient agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Funding Recipient under this Agreement shall be paid by the Funding Recipient to the State, to the extent that they are properly allocable to costs for which the Funding Recipient has been reimbursed by the State under this Agreement. The Funding Recipient shall also include in each of its contracts for work under this Agreement a provision that incorporates the requirements stated within this Paragraph.
- D.20. **INDEMNIFICATION:** Funding Recipient shall indemnify and hold and save the State, its officers, agents, and employees, free and harmless from any and all liabilities for any claims and damages (including inverse condemnation) that may arise out of the Project and this Agreement, including, but not limited to any claims or damages arising from planning, design, construction, maintenance and/or operation of levee rehabilitation measures for this Project and any breach of this Agreement. Funding Recipient shall require its contractors or subcontractors to name the State, its officers, agents and employees as additional insureds on their liability insurance for activities undertaken pursuant to this Agreement.
- D.21. **INDEPENDENT CAPACITY:** Funding Recipient, and the agents and employees of Funding Recipients, in the performance of the Funding Agreement, shall act in an independent capacity and not as officers, employees, or agents of the State.
- D.22. **INSPECTION OF BOOKS, RECORDS, AND REPORTS:** During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this Funding Agreement or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Funding Agreement. Failure or refusal by Funding Recipient to comply with this provision shall be considered a breach of this Funding Agreement, and State may withhold disbursements to Funding Recipient or take any other action it deems necessary to protect its interests.
- D.23. **INSPECTIONS OF PROJECT BY STATE:** State shall have the right to inspect the work being performed at any and all reasonable times during the term of the Funding Agreement. This right shall extend to any subcontracts, and Funding Recipient shall include provisions ensuring such access in all its contracts or subcontracts entered into pursuant to its Funding Agreement with State.
- D.24. **LABOR CODE COMPLIANCE:** The Funding Recipient agrees to be bound by all the provisions of the Labor Code regarding prevailing wages and shall monitor all contracts subject to reimbursement from this Agreement to assure that the prevailing wage provisions of the Labor Code are being met. Current Department of Industrial Relations (DIR) requirements may be found at: <http://www.dir.ca.gov/lcp.asp>. For more information, please refer to DIR's *Public Works Manual* at: <http://www.dir.ca.gov/dlse/PWManualCombined.pdf>. The Funding Recipient affirms that it is aware of the provisions of section 3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance, and the Funding Recipient affirms that it will comply with such provisions before commencing the performance of the work under this Agreement and will make its contractors and subcontractors aware of this provision.
- D.25. **MODIFICATION OF OVERALL WORK PLAN:** At the request of the Funding Recipient, the State may at its sole discretion approve non-material changes to the portions of Exhibits A, B, and C which concern the budget and schedule without formally amending this Funding Agreement. Non-material changes with respect to the budget are changes that only result in reallocation of the budget and will not result in an increase in the amount of the State Funding Agreement. Non-material changes with respect to the Project schedule are changes that will not extend the term of this Funding Agreement. Requests for non-material changes to the budget and schedule must be submitted by the Funding Recipient to the State in writing and are not effective unless and until specifically approved by the State's Program Manager in writing.

- D.26. NONDISCRIMINATION: During the performance of this Funding Agreement, Funding Recipient and its contractors or subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, general identity, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), marital status, and denial of medial and family care leave or pregnancy disability leave. Funding Recipient and its contractors or subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Funding Recipient and its contractors or subcontractors shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code, § 12990.) and the applicable regulations promulgated there under (Cal. Code Regs., tit. 2, § 11000 et seq.). The applicable regulations of the Fair Employment and Housing are incorporated into this Agreement by reference. Funding Recipient and its contractors or subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- Funding Recipient shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Funding Agreement.
- D.27. OPINIONS AND DETERMINATIONS: Where the terms of this Funding Agreement provide for action to be based upon, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.
- D.28. PERFORMANCE BOND: Where contractors are used, the Funding Recipient shall not authorize construction to begin until each contractor has furnished a performance bond in favor of the Funding Recipient in the following amounts: faithful performance (100%) of contract value, and labor and materials (100%) of contract value. This requirement shall not apply to any contract for less than \$25,000.00. Any bond issued pursuant to this paragraph must be issued by a California-admitted surety. (Pub. Contract Code, § 7103; Code Civ. Proc., § 995.311.)
- D.29. PRIORITY HIRING CONSIDERATIONS: If this Funding Agreement includes services in excess of \$200,000, the Funding Recipient shall give priority consideration in filling vacancies in positions funded by the Funding Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with Public Contract Code section 10353.
- D.30. PROHIBITION AGAINST DISPOSAL OF PROJECT WITHOUT STATE PERMISSION: The Funding Recipient shall not sell, abandon, lease, transfer, exchange, mortgage, hypothecate, or encumber in any manner whatsoever all or any portion of any real or other property necessarily connected or used in conjunction with the Project, or with Funding Recipient's service of water, without prior permission of State. Funding Recipient shall not take any action, including but not limited to actions relating to user fees, charges, and assessments that could adversely affect the ability of Funding Recipient meet its obligations under this Funding Agreement, without prior written permission of State. State may require that the proceeds from the disposition of any real or personal property be remitted to State.
- D.31. PROJECT ACCESS: The Funding Recipient shall ensure that the State, the Governor of the State, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times during Project construction and thereafter for the term of this Agreement.
- D.32. REMAINING BALANCE: In the event the Grantee does not submit invoices requesting all of the funds encumbered under this Grant Agreement, any remaining funds revert to the State. The State will notify the Grantee stating that the Project file is closed and any remaining balance will be disencumbered and unavailable for further use under this Grant Agreement.
- D.33. REMEDIES NOT EXCLUSIVE: The use by either party of any remedy specified herein for the enforcement of this Funding Agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

- D.34. RETENTION: The State shall withhold ten percent (10%) of the funds requested by the Funding Recipient for reimbursement of Eligible Project Costs until the Project is completed and Final Report is approved. Any retained amounts due to the Funding Recipient will be promptly disbursed to the Funding Recipient, without interest, upon completion of the Project.
- D.35. RIGHTS IN DATA: Funding Recipient agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes and other written or graphic work produced in the performance of this Funding Agreement shall be made available to the State and shall be in the public domain to the extent to which release of such materials is required under the California Public Records Act. (Gov. Code, § 6250 et seq.) Funding Recipient may disclose, disseminate and use in whole or in part, any final form data and information received, collected and developed under this Funding Agreement, subject to appropriate acknowledgement of credit to State for financial support. Funding Recipient shall not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so. The State shall have the right to use any data described in this paragraph for any public purpose.
- D.36. SEVERABILITY: Should any portion of this Funding Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Funding Agreement shall continue as modified.
- D.37. SUSPENSION OF PAYMENTS: This Funding Agreement may be subject to suspension of payments or termination, or both if the State determines that:
- A. Funding Recipient, its contractors, or subcontractors have made a false certification, or
 - B. Funding Recipient, its contractors, or subcontractors violates the certification by failing to carry out the requirements noted in this Funding Agreement.
- D.38. SUCCESSORS AND ASSIGNS: This Funding Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties. No assignment or transfer of this Funding Agreement or any part thereof, rights hereunder, or interest herein by the Funding Recipient shall be valid unless and until it is approved by State and made subject to such reasonable terms and conditions as State may impose.
- D.39. TERMINATION BY FUNDING RECIPIENT: Subject to State approval which may be reasonably withheld, Funding Recipient may terminate this Agreement and be relieved of contractual obligations. In doing so, Funding Recipient must provide a reason(s) for termination. Funding Recipient must submit all progress reports summarizing accomplishments up until termination date.
- D.40. TERMINATION FOR CAUSE: Subject to the right to cure under Paragraph 10, the State may terminate this Funding Agreement and be relieved of any payments should Funding Recipient fail to perform the requirements of this Funding Agreement at the time and in the manner herein, provided including but not limited to reasons of default under Paragraph 10.
- D.41. TERMINATION WITHOUT CAUSE: The State may terminate this Agreement without cause on 30 days' advance written notice. The Funding Recipient shall be reimbursed for all reasonable expenses incurred up to the date of termination.
- D.42. THIRD PARTY BENEFICIARIES: The parties to this Agreement do not intend to create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or any duty, covenant, obligation or understanding established herein.
- D.43. TIMELINESS: Time is of the essence in this Funding Agreement.
- D.44. TRAVEL: Travel includes the reasonable and necessary costs of transportation, subsistence, and other associated costs incurred by personnel during the term of this Funding Agreement. Any reimbursement for necessary travel and per diem shall be at rates not to exceed those set by the California Department of Human Resources. These rates may be found at: <http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>. Reimbursement will be at the State travel and per diem amounts that are

current as of the date costs are incurred. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State.

- D.45. UNION ORGANIZING: Funding Recipient, by signing this Funding Agreement, hereby acknowledges the applicability of Government Code sections 16645 through 16649 to this Funding Agreement. Furthermore, Funding Recipient, by signing this Funding Agreement, hereby certifies that:
- A. No State funds disbursed by this Funding Agreement will be used to assist, promote, or deter union organizing.
 - B. Funding Recipient shall account for State funds disbursed for a specific expenditure by this Funding Agreement to show those funds were allocated to that expenditure.
 - C. Funding Recipient shall, where State funds are not designated as described in (b) above, allocate, on a pro rata basis, all disbursements that support the program.
 - D. If Funding Recipient makes expenditures to assist, promote, or deter union organizing, Funding Recipient will maintain records sufficient to show that no State funds were used for those expenditures and that Funding Recipient shall provide those records to the Attorney General upon request.
- D.46. VENUE: The State and the Funding Recipient hereby agree that any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California, or in the United States District Court in and for the Eastern District of California. The Funding Recipient hereby waives any existing sovereign immunity for the purposes of this Agreement.
- D.47. WAIVER OF RIGHTS: None of the provisions of this Funding Agreement shall be deemed waived unless expressly waived in writing. It is the intention of the parties here to that from time to time either party may waive any of its rights under this Funding Agreement unless contrary to law. Any waiver by either party of rights arising in connection with the Funding Agreement shall not be deemed to be a waiver with respect to any other rights or matters, and such provisions shall continue in full force and effect.

Exhibit E
AUTHORIZING RESOLUTION ACCEPTING FUNDS

ATTACHMENT 2

RESOLUTION NO. SJAFCA 23-11

SAN JOAQUIN AREA
FLOOD CONTROL AGENCY

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AUTHORIZATION TO ENTER INTO FUNDING AGREEMENT BETWEEN THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND THE SAN JOAQUIN AREA FLOOD CONTROL AGENCY FOR THE PARADISE CUT BYPASS EXPANSION PROJECT

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN JOAQUIN AREA FLOOD CONTROL AGENCY, AS FOLLOWS:

1. Authorize the Executive Director or designee to execute a funding agreement and any amendments thereto, with the California Department of Water Resources (DWR) to complete the Paradise Cut Bypass Expansion Project.
2. Authorize the Executive Director or designee to execute all documents related to the Project and make any administrative changes to this resolution in consultation with SJAFCA's general counsel, to clarify the Board's intent and satisfy DWR's administrative and legal requirements.

PASSED, APPROVED AND ADOPTED this 20th day of April 2023



GARY SINGH, Chair
of the San Joaquin Area
Flood Control Agency

ATTEST:



CHRIS ELIAS, EXECUTIVE DIRECTOR
of the San Joaquin Area
Flood Control Agency

APPROVED AS TO FORM:



SCOTT L. SHAPIRO, Legal Counsel
For the San Joaquin Area
Flood Control Agency

Exhibit F

REPORT FORMATS AND REQUIREMENTS

The following reporting formats should be utilized. Please obtain State approval prior to submitting a report in an alternative format.

1. PROGRESS REPORTS

Progress reports shall generally use the following format. This format may be modified as necessary to effectively communicate information.

PROJECT STATUS

Describe the work performed during the time period covered by the report including but not limited to:

PROJECT INFORMATION

- Legal matters, Environmental matters
- Engineering Evaluations
- Status of permits, easements, rights-of-way, rights of entry and approvals as may be required by other State, federal, and/or local agencies
- Major accomplishments during the quarter (i.e., tasks completed, milestones met, meetings held or attended, press releases, etc.)
- Issues/concerns that have, will, or could affect the schedule or budget, with a recommendation on how to correct the matter
- Describe differences between the work performed and the work outlined in the Overall Work Plan, including change orders
- Demonstrate financial ability to pay local cost share of Eligible Project Costs required to complete the Project
- Estimate the percentage completion of the overall project
- Identify key issues that need to be resolved
- Photos documenting progress

COST INFORMATION

- Provide a list showing all project costs incurred during the time period covered by the report by the Funding Recipient and each contractor working on the project and which of these costs are Eligible Project Costs
- A discussion on how the actual budget is progressing in comparison to the project budget included in the Overall Work Plan
- A list of any changes approved to the budget in accordance with Funding Agreement and a revised budget, by task, if changed from latest budget in the Overall Work Plan
- A discussion of whether there have been any changes to the Funding Recipient's finance plan for payment of the Funding Recipient's share of Eligible Project Costs

SCHEDULE INFORMATION

- A schedule showing actual progress verses planned progress
- A discussion on how the actual schedule is progressing in comparison to the original or last reported schedule

- A list of any changes approved to the Schedule in accordance with Funding Agreement and a revised schedule, by task, if changed from latest reported schedule

2. PROJECT COMPLETION REPORT

Project Completion Reports shall generally use the following format.

EXECUTIVE SUMMARY – Should include a brief summary of project information and include the following items:

- Brief description of work proposed to be done in the original application
- Description of actual work completed and any deviations from the work plan identified in the Funding Agreement

REPORTS AND/OR PRODUCTS – The following items should be provided

- Electronic copies of any data collected, not previously submitted
- Self-Certification that the Project meets the stated goal of the funding agreement (e.g. 100-year level of flood protection, HMP standard, PI-84-99, etc.)
- Project photos
- Discussion of problems that occurred during the work and how those problems were resolved
- A final project schedule showing actual progress versus planned progress
- All deliverables listed in the Scope of Work

COSTS AND DISPOSITION OF FUNDS – A list of showing:

- The date each invoice was submitted to State
- The amount of the invoice
- The date the check was received
- The amount of the check (If a check has not been received for the final invoice, then state this in this section.)
- A summary of the payments made by the Funding Recipient for meeting its cost sharing obligations under this Funding Agreement.
- A summary of final funds disbursement including:
 - Labor cost of personnel of agency/ major consultant /sub-consultants. Indicate personnel, hours, rates, type of profession and reason for consultant, i.e., design, CEQA work, etc.
 - Evaluation cost information, shown by material, equipment, labor costs, and any change orders
 - Any other incurred cost detail
 - A statement verifying separate accounting of funding disbursements
- Summary of project cost including the following items:
 - Accounting of the cost of project expenditure;
 - Include all internal and external costs not previously disclosed; and
 - A discussion of factors that positively or negatively affected the project cost and any deviation from the original project cost estimate.

ADDITIONAL INFORMATION – Any relevant additional Information should be included.

Exhibit G

STATE AUDIT DOCUMENT REQUIREMENTS FUNDING RECIPIENTS

The following provides a list of documents typically required by State Auditors and general guidelines for Funding Recipients. Funding Recipients should ensure that such records are maintained.

State Audit Document Requirements

Internal Controls

1. Organization chart (e.g., Agency's overall organization chart and organization chart for the State funded Program/Project).
2. Written internal procedures and flowcharts for the following:
 - a) Receipts and deposits
 - b) Disbursements
 - c) State reimbursement requests
 - d) Expenditure tracking of State funds
 - e) Guidelines, policy, and procedures on State funded Program/Project
3. Audit reports of the Agency internal control structure and/or financial statements within the last two years.
4. Prior audit reports on the State funded Program/Project.

State Funding:

1. Original Funding Agreement, any amendment(s) and budget modification documents.
2. A listing of all bond-funded grants, loans, or subventions received from the State.
3. A listing of all other funding sources for each Program/Project.

Contracts:

1. All subcontractor and consultant contracts and related or partners' documents, if applicable.
2. Contracts between the Agency and member agencies as related to the State funded Program/Project.

Invoices:

1. Invoices from vendors and subcontractors for expenditures submitted to the State for payments under the Funding Agreement.
2. Documentation linking subcontractor invoices to State reimbursement, requests and related Funding Agreement budget line items.
3. Reimbursement requests submitted to the State for the Funding Agreement.

Cash Documents:

1. Receipts (copies of warrants) showing payments received from the State.
2. Deposit slips (or bank statements) showing deposit of the payments received from the State.
3. Cancelled checks or disbursement documents showing payments made to vendors, subcontractors, consultants, and/or agents under the grants or loans.
4. Bank statements showing the deposit of the receipts.

Accounting Records:

1. Ledgers showing entries for funding receipts and cash disbursements.
2. Ledgers showing receipts and cash disbursement entries of other funding sources.

3. Bridging documents that tie the general ledger to requests for Funding Agreement reimbursement.

Administration Costs:

1. Supporting documents showing the calculation of administration costs.

Personnel:

1. List of all contractors and Agency staff that worked on the State funded Program/Project.
2. Payroll records including timesheets for contractor staff and the Agency personnel who provided services charged to the program

Project Files:

1. All supporting documentation maintained in the project files.
2. All Funding Agreement related correspondence.

Exhibit H

Project Location

Project Location/Site/Vicinity Map – Provide a map and/or diagrams depicting the project location and site characteristics including the area and watershed encompassed by the project and disadvantaged communities within the project area (if applicable).

Project Drawings and Sketches – Provide drawings or sketches of project features in adequate detail to describe them.

If needed, provide a description of the project location including overlying jurisdiction (City, County, State, or Federal land), Assessor Parcel Numbers, property addresses, legal descriptions, and Latitude/Longitude of project site.