

**CALIFORNIA WILDLIFE CONSERVATION BOARD
GRANT AGREEMENT
FOR
ACQUISITION OF CONSERVATION EASEMENT**

• * * * CHECK WCB LOGO EXHIBIT * * * *
See logos for Props 12 and 84 on the shared drive.

**If project involves a subgrant, change Section 12 (Audit) time
to 4 years instead of 3 to match subgrant.**

Grantee: Name:
 Address:

 Attn:

 Phone:
 Fax:

 Federal Employers ID No./Taxpayer ID No.: _____

Project Name:

Project Location:

WCB Grant Agreement Number: WC-_____

WCB Project ID:

WCB Grant Agreement Amount: Not to exceed \$

Notices to be addressed to:

For Grantee:

Attn:

For Grantor:

Wildlife Conservation Board
Mailing address: P.O. Box 944209
Sacramento, California 94244-2090
Attn: Executive Director

With a copy to:

California Department of Fish and Wildlife

P.O. Box 944209
Sacramento, California 94244-2090
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 ***[identify the specific fund source, e.g., "the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Prop. 50), Water Code Section 795XX"]***, the Wildlife Conservation Board ("Grantor") hereby grants to _____, a _____ ("Grantee"), a sum not to exceed _____ Dollars (\$_____00) ("Grant Funds"), upon and subject to the terms and conditions of this Grant Agreement for Acquisition of Conservation Easement ("Agreement").

2. **PURPOSES OF GRANT**

Grantor is entering into this Agreement, and the Grant Funds shall be used, only for the purpose of facilitating the project (the "Project") generally described as: Grantee's acquisition of a perpetual conservation easement (the "Conservation Easement") over approximately _____ acres of land commonly known as _____, located in the County of _____, California (the "Property"). The Property is more particularly described in **Exhibit A** attached to this Agreement. A copy of the unexecuted form of the Conservation Easement is attached to this Agreement as **Exhibit B**. The owner of the Property is referred to in this Agreement as the "Landowner."

Grantee covenants and agrees that if Grantor deposits the Grant Funds into escrow and Grantee acquires the Conservation Easement, such acquisition shall be for the following purposes (individually and collectively, the "Purposes of Grant"): ensuring that, under Grantee's perpetual stewardship, the Property shall be preserved in its ***[include all applicable term(s) from the following list: natural, scenic, agricultural, historical, forested and open-space]*** condition and used for the purposes of ***[expand/revise the following statement to match the purposes and requirements of the fund source identified in Section 1 of this Agreement]*** *wildlife habitat preservation, restoration and management, wildlife-oriented education and research, and for compatible public or private uses, all as may be consistent with wildlife habitat preservation and protection of sensitive biological resources*, including, without limitation, ***[identify the specific "Conservation Values" of the Property consistent with the conservation easement and the Baseline Conditions Report; be sure descriptions are consistent with above Purposes of Grant and identified fund source]*** (individually and collectively, the "Conservation Values").

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 Grantee's acquisition of the Conservation Easement, 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.

3.2. Grantee shall have removed or caused to be removed, or otherwise addressed to the satisfaction of Grantor, any encumbrances or defects of title which 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 or the holder of the interest or encumbrance shall have unconditionally subordinated its rights to the Conservation Easement by a recorded subordination agreement in form and content acceptable to Grantor.

3.3. Grantor shall have reviewed and approved a baseline conditions report ("Baseline Report"), which shall provide detailed information on the condition of the property to be protected. The Baseline Report shall be tailored to the Purposes of Grant and the specific resources and Conservation Values the Conservation Easement is to protect. The Baseline Report must be completed, signed, and certified by the Landowner and the Grantee by the close of escrow. The Grantee shall send an electronic copy of the signed Baseline Report to wcbmonitoring@wildlife.ca.gov. The certification must confirm that the Baseline Report is a current and accurate description and representation of the Property and its resources and Conservation Values as of the closing. At the time of disbursement of the Grant Funds, there shall have been no change to the condition of the Property from that described in the Baseline Report as reviewed and approved by Grantor.

Grantor shall not unreasonably withhold its approval of the Baseline Report, so long as it: (a) describes and documents the features and characteristics of the Property in relation to the purposes, Conservation Values and terms of the Conservation Easement; (b) describes and documents the resources and Conservation Values to be protected by the Conservation Easement and characterizes their overall general condition; (c) contains all information necessary for the Grantee to administer, monitor and enforce the Conservation Easement; and (d) conforms to the minimum standards set forth in **Exhibit C** attached to this Agreement.

The Baseline Report can be up to six months old, but not more than one year old. If the Baseline Report is completed more than six months before the close of escrow, then Grantee must provide written confirmation that the conditions and information in the Baseline Report accurately describe the condition of the Property at the time of close of escrow, or update the Baseline Report as needed, by the close of escrow. The Baseline Report shall become part of the project file maintained by Grantor.

3.4. Grantor shall have reviewed and approved an individualized monitoring protocol for the Property ("Monitoring Protocol") which will guide the preparation for and implementation of Grantee's monitoring of the Conservation Easement. Using the Baseline Report as a benchmark, the Monitoring Protocol must address the

purpose(s), frequency, timing and methods of monitoring the Property, be adaptive, and be tailored to the purposes, terms and conditions of the Conservation Easement and the Purposes of Grant. The Monitoring Protocol shall be designed to enable Grantee to evaluate compliance with the terms and conditions of the Conservation Easement and identify and document changes to the Property as compared with the Baseline Report and any prior Monitoring Report (as defined in Section 5.4). Grantor shall not unreasonably withhold its approval of the Monitoring Protocol so long as it describes how the Conservation Easement will be monitored, how monitoring activities and results will be documented, and conforms to the minimum standards set forth in **Exhibit D** to this Agreement. The Monitoring Protocol shall become part of the project file maintained by Grantor. The Monitoring Protocol may be changed if necessary due to changes in resource conditions on the Property. Provided, however, that any proposed change to the Monitoring Protocol shall be subject to the approval of Grantor.

3.5. Grantee shall acquire the Conservation Easement from a willing seller for a purchase price which does not exceed the fair market value of the Conservation Easement 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.

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

3.7. Grantee shall have deposited, or caused to be deposited, into escrow all funds beyond those granted under this Agreement that are needed for Grantee to complete its acquisition of the Conservation Easement.

3.8. **[Include if applicable]** Grantee is acquiring the Conservation Easement for less than the approved, appraised fair market value. The difference between the purchase price and the appraised value is considered a landowner donation. The landowner donation has been approved by U.S. Fish and Wildlife Service as being eligible to be used as a portion of the non-federal match. **[Include if applicable]** Concurrently with this Agreement, WCB and Grantee have entered into Subgrant Agreement No. SG-_____, pursuant to which WCB agrees to grant to Grantee the Federal share of funding for the Acquisition.

3.9. **[Insert any other applicable conditions which must be met before WCB will disburse Grant Funds.]**

4. **DISBURSEMENT PROCEDURE**

Except as provided in paragraph 17, upon satisfaction of all of the Conditions of Grant set forth in Section 3, above, and subject to approval 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) which are needed to complete the Project, including Grantee's acquisition of the Conservation Easement, 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 _____ Dollars (\$_____) into the designated escrow account.

5. **GRANTEE'S COVENANTS**

In consideration of Grantor's disbursement of the Grant Funds, Grantee hereby covenants and agrees as follows:

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

5.2. Grantee shall administer, maintain, enforce and defend the Conservation Easement to ensure that the Property shall be used, operated, managed and maintained in perpetuity in a manner that complies with the Conservation Easement and this Agreement, and fulfills the Purposes of Grant set forth in Section 2.

5.3. Grantee shall monitor the Property at least annually to assess the condition

of the Property, including without limitation the Conservation Values, and compliance with the Conservation Easement and the Purposes of Grant. Monitoring shall be carried out in accordance with the Monitoring Protocol approved by Grantor. The Monitoring Protocol shall not be changed without the prior written approval of Grantor. If Grantee suspects or determines that any violation of the Conservation Easement has occurred or is threatened, Grantee will provide notice to Grantor at the time the Landowner is notified of the violation or threatened violation, in accordance with the procedures in the Monitoring Protocol. The notice to Grantor will include a description of the violation and a proposed course of action.

5.4. Grantee shall provide a detailed electronic written report of its monitoring activities and the results of such monitoring ("Monitoring Report") to Grantor within 90 days following each occurrence of monitoring activities. The Monitoring report shall be sent to wcbmonitoring@wildlife.ca.gov, shall address each element of the Monitoring Protocol approved by Grantor, and shall describe and document the monitoring activities in a manner which demonstrates that the monitoring was conducted in accordance with the approved Monitoring Protocol. If there have been any changes to the Property as compared with the Baseline Report approved by Grantor, or any previous Monitoring Report, the Monitoring Report shall identify, explain and assess the changes and any necessary corrective action. Monitoring Reports shall become part of the project file maintained by Grantor.

5.5 The Conservation Easement may not be used to satisfy any requirement or condition imposed by any permit, agreement, authorization or entitlement for use ("Mitigation"), including but not limited to any requirement to compensate for or otherwise offset impacts of an activity, without the written approval of the State acting through the Executive Director of WCB or its successor. The State shall not approve any Mitigation on account of (i) the protection of the Property resulting from its acquisition or ownership of the Conservation Easement by the Grantee, (ii) any Mitigation that is inconsistent with this Agreement, or (iii) any activity on the Property (including but not limited to restoration) to cure, correct or otherwise remedy any breach or default of this Agreement or the Conservation Easement. If the State approves any Mitigation under this paragraph, such approval shall be for the purposes of this Agreement only. Actual Mitigation requirements and conditions will be established and enforced by the authorities imposing them. **[Confirm that Conservation Easement reflects this approval requirement.]**

5.6. At the request of Grantor, not less than once in any period of three calendar years, Grantee shall make arrangements for staff of Grantor to access the Property to assess compliance with the terms, covenants and conditions of this Agreement. Such access shall be in the company of Grantee and the Landowner, unless the Grantee or the Landowner otherwise agrees. To the extent possible, Grantor will schedule such visits at the time of Grantee's annual monitoring visit. **[Conservation Easement must allow access by Grantor consistent with this section.]**

5.7. Grantee shall not consent to any amendment of the Conservation Easement without the prior written consent of the State of California, acting through the

Executive Director of WCB or its successor. ***[Conservation Easement must specify that any amendment is subject to approval by Grantor, and that any amendment made without this approval is void.]***

5.8. Grantee shall recognize the cooperative nature of the Project and shall provide credit to the Landowner, the Grantor, the California Department of Fish and Wildlife, and any other contributor on signs, demonstrations, promotional materials, advertisements, publications or exhibits prepared or approved by Grantee referencing the Project. Subject to the mutual agreement of Grantor and Grantee regarding text, design and location, Grantee shall post one or more sign(s) on the Property to indicate the participation of Grantor in Grantee's purchase of the Conservation Easement; provided however, that the sign(s) shall display Grantor's logo as shown on **Exhibit F**. ***[Conservation Easement must include the signage rights necessary to carry out this obligation.]***

5.9. The Conservation Easement (including any portion of it or any interest in it) shall not be assigned, sold, transferred, exchanged or otherwise conveyed with respect to the whole or any portion of the Property 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 so long as the Conservation Easement shall continue to be held, administered, maintained, enforced and defended 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. ***[Confirm that Conservation Easement reflects these transfer requirements]***

5.10. The Conservation Easement 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. ***[Confirm that Conservation Easement reflects this approval requirement]***

5.11. Grantee shall record or cause to be recorded, concurrently with close of escrow for the purchase of the Conservation Easement, 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 Grantee in acquiring the Conservation Easement and that, in consideration for the receipt of the Grant Funds, Grantee has agreed to the terms of this Agreement. The Notice shall be in the form of **Exhibit G**.

5.12. Grantee shall provide to Grantor, promptly following the close of escrow, a conformed copy of the recorded Conservation Easement and Notice, with all recording information, as well as a copy of the final closing or settlement statement and the title insurance policy insuring Grantee as the owner of the Conservation Easement acquired as a result of this Grant Agreement. Grantee shall also 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.

5.13. The Conservation Easement shall not be terminated or extinguished, in whole or in part, except through appropriate legal proceedings in a court of competent jurisdiction. ***[Confirm that Conservation Easement reflects this limitation]***

5.14. Grantee shall ensure that the terms and conditions of the Conservation Easement are taken into account when calculating the baseline/business as usual of the Property for purposes of establishing carbon credits or other emissions offsets that the Grantee proposes to authorize, create, sell, exchange or transfer with respect to the Property. Grantee further agrees to notify Grantor at least 45 days prior to any such proposed establishment.

Further, the Conservation Easement shall require the Landowner to ensure that the terms and conditions of the Conservation Easement are taken into account when calculating the baseline/business as usual of the Property for purposes of establishing carbon credits or other emissions offsets that the Landowner proposes to authorize, create, sell, exchange or transfer, and to notify the Grantee at least 45 days prior to any such proposed establishment. Upon receipt of any such notice Grantee shall promptly furnish a copy of the same to Grantor.

Consistent with the provisions of Section 5.4, GRANTEE'S COVENANTS, Grantee agrees to include in the required annual monitoring report, a summary of any activity by the Landowner or Grantee to establish carbon credits or other emissions offsets with respect to the Property, and to provide Grantor with such further information as Grantor may request regarding such activity.

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 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 at Grantee's address for notices set forth at the beginning of this Agreement.

6.2. If 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 does not commence the cure within the 90-day period and diligently pursue it to completion, then Grantee shall be in default ("Default") under this Agreement.

6.3. Grantee shall also be in Default under this Agreement upon the discovery that information given to Grantor by or on behalf of 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 agrees that payment by 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 benefits to be derived by Grantor from full compliance by Grantee with the terms of this Agreement are ***[revise italicized text to match Purposes of Grant in Section 2]*** *wildlife habitat preservation, restoration and management, wildlife-oriented education and research, and compatible public or private uses, all as may be consistent with wildlife habitat preservation and protection of sensitive biological resources*, and because such benefits exceed to an immeasurable and unascertainable extent the amount of Grant Funds furnished by Grantor to Grantee under this Agreement.

7.2. Grantor may require Grantee to convey its interest in the Conservation Easement to Grantor (or, at the election of Grantor, another entity or organization authorized by California law to acquire and hold conservation easements and that is willing and financially able to assume all of the obligations and responsibilities of Grantee). ***[Conservation Easement must provide for this transfer]***

7.3. Despite the contrary provisions of Sections 6.1 and 6.2 of this Agreement, if Grantor determines that circumstances require immediate action to prevent or mitigate injury to or impairment of the Conservation Values, or 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 Grantee is a nonprofit organization and the existence of 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 8 shall be recorded and shall set forth the executory interest or right of entry on the part of the State of California. ***[Conservation Easement should reflect the requirements of this Section 8]***

9. **TERM**

9.1. This Agreement shall be deemed executed and effective when signed by authorized representative(s) of each of Grantor and Grantee and received in the respective offices of Grantee and Grantor, together with the resolution described in Section 3.6 (the "Effective Date"). Grantee and Grantor shall each sign two original counterparts of this Agreement. Grantee shall receive one completely executed original and Grantor 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 _____, 20____, if escrow has not closed by that date.

9.3. Prior to Grantee's close of escrow for acquisition of the Conservation Easement, either party may terminate this Agreement for any reason or for no reason, by providing the other party 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 Grantee's close of escrow for acquisition of the Conservation Easement, 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 Sections 2 (Purposes of Grant) and 5 (Grantee's Covenants), shall survive the close of escrow for the acquisition of the Conservation Easement and remain in full force and effect.

10. **LIABILITY; MODIFICATIONS; INTERPRETATION**

10.1. Grantee shall indemnify, protect and hold harmless Grantor, 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, management, monitoring, enforcement, defense or administration of the Conservation Easement, except that 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 and Grantee. No 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 Grantor in accordance with this Agreement.

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, its 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 the Grantee, either in whole or in part, except in connection with a transfer of the Conservation Easement approved by Grantor under Section 5.8.

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.

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 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.*) or otherwise.

11. **TERMINATION AND EXTINGUISHMENT**

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, so as to terminate the Conservation Easement in whole or in part, Grantor and Grantee shall act jointly to recover from the condemning authority the full value of Grantee's interest in 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 Grantee paid to acquire the Conservation Easement (*e.g.*, if Grantor provided \$50,000.00 of Grant Funds and the Conservation Easement 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 Grantee's interest in 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 Grantee in connection with the taking or purchase. ***[Need to evaluate condemnation provisions of Conservation Easement,***

especially allocation of proceeds between Landowner and Grantee, in light of this provision.]

12. **AUDIT**

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 three years after final disbursement by Grantor. During such time, 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. 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 acknowledges the applicability to this Agreement of Government Code Sections 16645 through 16649, and certifies that:

13.1. No state funds disbursed by this grant will be used to assist, promote or deter union organizing;

13.2. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show that those funds were allocated to that expenditure;

13.3. 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 makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

14. **NON-DISCRIMINATION**

During the performance of this Agreement, 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 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 or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

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 shall give written notice of its obligations under this non-discrimination clause to labor organizations with which 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 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 - Property Description

Exhibit B - Form of Conservation Easement

Exhibit C - Minimum Standards for Baseline Conditions Report

Exhibit D - Minimum Standards for Monitoring Protocol

Exhibit E - Certified Resolution or Other Action of Governing Body of Grantee

Exhibit F - Grantor's Logo

Exhibit G - Form of Notice of Unrecorded Grant Agreement

16. **AUTHORIZATION**

The signature of the Executive Director certifies that at the Wildlife Conservation Board meeting held on _____, 20____, 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 _____, 20____, in the State of California, by and between the Wildlife Conservation Board and _____, each of which hereby agrees to the terms and conditions set forth on pages 1 through ____, along with Exhibits A through G, of this Agreement.

STATE OF CALIFORNIA
WILDLIFE CONSERVATION BOARD

GRANTEE:

By: _____

John P. Donnelly

Title: Executive Director

Date: _____

By: _____

(Name)

Title: _____

Date: _____

Project Name:

County:

Project ID:

FUNDING CERTIFICATION:

I hereby certify that (a) the following funds will be encumbered on behalf of Grantor; and (b) Grant Funds shall not be disbursed unless and until sufficient proceeds from the source identified below become available to Grantor to disburse.

Fiscal Officer

Date

Grantee:

Organization Name

Mailing Address

City, State Zip

Contact Name

Contact Telephone No.

Contact Facsimile No.

WCB Grant Agreement #: WC –

Agreement Term:

to

WCB Grant Amount:

Fund Source:

Appropriation Item: Chapter _____, Statutes of _____

Expenditure Code:

EXHIBIT A

(Legal Description of Property)

EXHIBIT B

(Form of Conservation Easement)

EXHIBIT C

Minimum Standards for Baseline Conditions Report

The Baseline Conditions Report (Baseline Report) must satisfy the requirements set forth in the Grant Agreement of which this Exhibit C is a part and contain at least the following information:

1. Date. Date Baseline Report was prepared.
2. Preparer Information. Identity and qualifications of preparer(s) that demonstrates their experience, education and expertise relevant to the resources, features and characteristics being documented, the Conservation Values and purposes of the Conservation Easement and the tasks necessary to prepare the Baseline Report.
3. Ownership Information. Name(s) and contact information of current Landowner.
4. Description of Property. General location and setting, natural features, current and historic land uses, presence and description of all improvements and other man-made features on the Property relevant to the purposes and terms of the Conservation Easement.
5. Resources and Conservation Values. Detailed description of the resources and Conservation Values of the Property, including all relevant features and conditions of the Conservation Values necessary to establish a baseline from which to monitor and enforce the Conservation Easement. The description may include ecological, scenic, historic, and landscape components, such as wildlife habitat, ecological, agricultural, historical, forested and/or open-space features and uses, and is to be provided using information sources and methodologies appropriate to the resources, features and conditions being addressed. Descriptions should be sufficiently detailed to allow for meaningful future comparisons.
6. Maps. Appropriate survey maps, such as from the United States Geological Survey, which identify the property lines. One or more maps that describe the boundary of each conservation easement area and the location of the conservation easement area(s) within the entire Property. The baseline maps should also depict the features of the Property that are relevant to the administration, monitoring and enforcement of the Conservation Easement. Relevant features may include improvements and other man-made attributes (e.g., roads, fences, gravel pits), topography, vegetative cover, soil types, etc., as well as the site(s) of specific resources and Conservation Values protected by the Conservation Easement (e.g., protected vegetation, wildlife habitats, natural or scenic features). Mapping should be produced to a technical standard suitable for electronic reproduction and transmission, as appropriate, and at a scale adequate to accurately depict the elements to

be included. All mapping should be dated and identify the party responsible for preparing the mapping information.

7. Photographs. Photographs taken at appropriate points on the Property to document the baseline condition of the Property, the Conservation Values and resources protected by the Conservation Easement, and other features of the Property that are relevant to the administration, monitoring and enforcement of the Conservation Easement, including aerial photographs as appropriate. With each photograph, text should be provided identifying the date of the photograph, the photographer, and what the photograph depicts. The geographic location from which each photograph was taken should be accurately recorded on a scaled map, with a directional arrow indicating the orientation of each photograph. An appropriate number of baseline photographs representing the purposes and Conservation Values of the project should be selected to serve as photo monitoring points designed to document significant changes over time or changes from the Baseline Report.
8. Certifications. Signed acknowledgment from Landowner and Grantee that the Baseline Conditions Report is a complete and accurate representation of the condition of the Property at the time the Conservation Easement is granted.
9. Conservation Easement. Copy of the recorded Conservation Easement.

EXHIBIT D

Minimum Standards for Monitoring Protocol

The Monitoring Protocol must contain all information necessary for the Grantee to monitor and assess compliance with the Conservation Easement, including pre-monitoring preparation, monitoring activities, records and reports. The Monitoring Protocol must contain at least the following specific information:

1. Pre-Monitoring Activities. How frequently will the Conservation Easement be monitored? Under what circumstances will additional monitoring be required? How will the Landowner be contacted in the usual course of business? What information needs to be gathered or prepared in advance of the monitoring visit?
2. Monitors. Identify the required number, qualifications and training of monitors.
3. Purpose of Monitoring. The identified purpose must specifically relate to the Conservation Easement purposes, terms and conditions, the Baseline Report, and the Purposes of Grant.
4. Frequency and Timing. Specify frequency and timing (e.g., months or times of year appropriate to accurately assess the condition or track changes in the Conservation Values) of regular and special monitoring (e.g., in connection with changes of ownership or management of Property; possible violations observed during regular monitoring; enforcement of Conservation Easement).
5. Procedures and Methods of Monitoring. Include on-site inspection of entire Property as well as aerial and on-ground photographs, plus other methods as appropriate in light of particular Conservation Easement purposes, terms and conditions and Purposes of Grant. Encompass selected photo points contained in the Baseline Report with a plan for when and how the selected photo points will be re-shot, plus criteria for additional photo points if appropriate. The photo monitoring points will be used to document significant changes over time and /or changes from the Baseline Report.
6. Monitoring Checklist and Plan. Provide monitoring checklist (with narrative as appropriate) and plan tailored to Conservation Easement purposes, terms and conditions, Baseline Report and Purposes of Grant. Identify items (including issues and observations) to be discussed in a narrative report, if appropriate. If the Property is large, address how regular monitoring visits will cover the large expanse.

7. Documentation. Discuss how monitoring activities and results will be described and documented. Each Monitoring Report must include at least the following information:
 - a. Date(s) and time(s) of monitoring; conditions (weather, visibility, etc.)
 - b. Identities and number of participants (Grantee staff, consultants or representatives, Landowner, third parties)
 - c. Qualifications and affiliations of monitors
 - d. Purpose of monitoring (e.g., annual monitoring, special inspection due to suspected violation or request for consent to exercise of reserved right, change of ownership, etc.)
 - e. Method(s) of monitoring (e.g., aerial inspection, drive-by, site visit, etc.) including route(s) of travel
 - f. Documentation of monitoring procedures and activities, including any information brought to the monitoring visit (e.g., Baseline Report, previous Monitoring Report(s), management plan, aerial photographs, maps, etc.)
 - g. Description and summary of observations documented with photo monitoring points annotated with date, location, description and orientation as identified in the Baseline Report. Photographs should be cross-referenced to the Baseline Report.
 - h. Description of site conditions relative to the terms, conditions and purposes of the Conservation Easement and the Purposes of Grant, including any observable changes from the Baseline Report or the last completed Monitoring Report.
 - i. Any additional comments on observations, including facts relating to any possible violation(s) observed and any follow-up recommendations.
8. Post-Monitoring Activities. Describe plan for how, when and by whom the Monitoring Report will be prepared. How will checklists, notes, photographs and other items be retained, stored and managed? Describe storage, protection, back-up, retention and management of the Monitoring Report.
9. Response to Possible Problems or Violations. What will be the procedures in the event that a potential problem is identified in the field? When and how will notice be given to the Landowner and Grantor?
10. Changes. Describe circumstances in which changes to the Monitoring Protocol may be appropriate. When and how will any proposed changes be presented for consideration of approval by Grantor?

EXHIBIT E

(Certified Resolution or Other Action of Grantee Governing Body)

EXHIBIT F

(WCB Logo)



EXHIBIT G

(Notice of Unrecorded Grant Agreement)

RECORDING REQUESTED BY:

[Insert Grantee Name and Address])
)
)
)
)

WHEN RECORDED, RETURN TO:

State of California)
Wildlife Conservation Board)
Attn: Executive Director)
Mailing address: 1416 9th Street, Room 1266)
Sacramento, CA 95814)

Project Name: _____
County: _____

Space above line for Recorder's use

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

This Notice of Unrecorded Grant Agreement ("Notice"), dated as of _____, 20____, is made by _____ ("Grantee") and recorded concurrently with the Conservation Easement described below, to provide notice of an agreement between Grantee and the Wildlife Conservation Board ("Grantor" or "WCB"), a subdivision of the State of California, affecting the real property described below.

1. WCB and Grantee have entered into the California Wildlife Conservation Board Grant Agreement for Acquisition of Conservation Easement, Grant Agreement No. WC-_____ ("Grant" or "Agreement"), pursuant to which WCB grants to Grantee certain funds for Grantee's acquisition of a perpetual Conservation Easement over approximately _____ acres of real property located in the City of _____, County of _____, California (the "Property"), from _____ [*identify Landowner*] (the "Conservation Easement"). 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 agrees 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 Conservation Easement and that, in consideration of the Grant Funds, Grantee has agreed to the terms of the Grant. The Grant is incorporated by reference into this Notice.

3. Grantee covenants and agrees in Section 5 of the Agreement as follows:

3.1. The Grantee shall administer, maintain, enforce and defend the Conservation Easement to ensure that the Property shall be used, operated, managed and maintained in perpetuity in a manner that complies with the Conservation Easement and this Agreement, and fulfills the Purposes of Grant set forth in Section 2 of the Agreement:

The Property shall be **[insert purpose statement from second grammatical paragraph of Section 2 of Agreement]** (individually and collectively, the "Purposes of the Grant")

3.2 The Conservation Easement may not be used to satisfy any requirement or condition imposed by any permit, agreement, authorization or entitlement for use ("Mitigation"), including but not limited to any requirement to compensate for or otherwise offset impacts of an activity, without the written approval of the State of California, acting through the Executive Director WCB or its successor.

3.3. At the request of Grantor, not less than once in any period of three calendar years, Grantee shall make arrangements for staff of Grantor to access the Property to assess compliance with the terms, covenants and conditions of the Grant.

3.4. Grantee shall not consent to any amendment of the Conservation Easement without the prior written consent of the State of California, acting through the Executive Director of WCB or its successor.

3.5 The Conservation Easement (including any portion of it or any interest in it) shall not be assigned, sold, transferred, exchanged or otherwise conveyed with respect to the whole or any portion of the Property without the written approval of the State of California, acting through the Executive Director of WCB or its successor.

3.6 The Conservation Easement 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.

3.7. The Conservation Easement shall not be terminated or extinguished, in whole or in part, except through appropriate legal proceedings in a court of competent jurisdiction.

3.8 Grantee 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. Grantee agrees to notify WCB prior to any such proposed establishment.

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 Grantee to convey its interest in the Conservation Easement to Grantor (or, at the election of Grantor, another entity or organization authorized by California law to acquire and hold conservation easements and that is willing and financially able to assume all of the obligations and responsibilities of Grantee).

5. Pursuant to Section 8 of the Agreement, if Grantee is a nonprofit organization and the existence of 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 of the Agreement, the Grant shall remain in full force and effect from and after the close of escrow for the acquisition of the Conservation Easement.

7. Pursuant to Section 10 of the Agreement, the Grant shall be binding upon Grantee and all designees, successors and assigns of 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, so as to terminate the Conservation Easement, in whole or in part, Grantor and Grantee shall act jointly to recover from the condemning authority the full value of Grantee's interest in 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 Grantee paid to acquire the Conservation Easement.

9. This Notice is solely for the purpose of recording and in no way modifies the provisions of the Agreement. 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 Conservation Easement by and between WCB and Grantee that commenced _____, 20____, and is on file with the Wildlife Conservation Board, 1700 9th Street, 4th Floor, Sacramento, California 95811; mailing address: Wildlife Conservation Board, c/o California Department of Fish and Wildlife, P.O. Box 944209, Sacramento, CA 94244-2090.

GRANTEE:

By:_____

Print Name:_____

Title:_____

[Notary Acknowledgment]