

**GRANT AGREEMENT**  
(new 12/18)

1. This Grant Agreement is entered into by and between the Department of Conservation and (Grantee):

2. The Grant Agreement Term is: From through  
(Or upon execution of this Grant Agreement by both parties, whichever is later)

3. The maximum amount of this Grant Agreement is: \$

4. The Grantee, by executing this Grant Agreement, agrees to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Grant Agreement:

Exhibit A Scope of Work	Pages
Exhibit B Budget Detail and Payment Provisions	Pages
Exhibit C General Terms and Conditions	Pages
Exhibit D Special Terms and Conditions	Pages
Attachment 1 Project Map	Pages
Attachment 2 Authorized Signatory Form	Pages
Attachment 3 Agricultural Conservation Easement Final Report Template	Pages
Attachment 4 Conditions of Funding Disbursal	Pages
Attachment 5 Easement Acquisition Invoice Template	Pages
Attachment 6 Associated Costs Invoice Template	Pages
Attachment 7 Invoice Dispute Notification Template	Pages
Attachment 8 Budget	Pages
Attachment 9 Endowment Holder Certification	Pages
Attachment 10 Regulations for Contracts Receiving Funding under ARRA	Pages

**IN WITNESS WHEREOF, this Agreement has been executed by the Parties hereto.**

**GRANTEE**

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

BY ( <i>Authorized Signature</i> ) 	DATE SIGNED
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PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

**STATE OF CALIFORNIA**

Agency Name: Department of Conservation

BY ( <i>Authorized Signature</i> ) 	DATE SIGNED
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PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

## EXHIBIT A SCOPE OF WORK

### 1. Background and Project Statement

The Agricultural Land Mitigation Program (“ALMP” or “Program”) is administered by the Department of Conservation’s California Farmland Conservancy Program on behalf of the California High-Speed Rail Authority. Under the enabling legislation, the California High-Speed Rail Authority (“Authority”) was created to oversee the development and implementation of the high-speed train project. On June 28, 2013, the Authority and the Department of Conservation (“Department”) entered into an Interagency Agreement, amended in part on April 16, 2014 and September 24, 2019. Under the Interagency Agreement, the Department is to assist the Authority by providing services to meet the Authority’s environmental commitments associated with the conversion of agricultural land to non-agricultural uses by the high-speed rail project. The Department will assist the Authority with partial mitigation of those impacts via the establishment of permanent agricultural conservation easements on land of similar acreage, location, and quality to that impacted by the alignment and maintenance facilities located within the Central Valley.

The Department released the Final Grant Guidelines & Applications on \_\_\_ 2019. The Guidelines are hereby incorporated by reference and made a part hereof. In the event of a conflict between the Guidelines and this Agreement, the terms of this Agreement shall control. In accordance with the Guidelines, Grantee submitted application [DOC Application Number] for the acquisition of a perpetual agricultural conservation easement on approximately [number of acres] of privately owned real property known as the [Property Common Name] located in/near [City/CDP] in the County of [County]. The [Property Common Name] is shown on Attachment 1. Acquisition of the conservation easement on the [Property Common Name] will be referred to as the “Project” throughout this Grant Agreement.

The HSRA awarded Grantee a grant for the Project on \_\_\_ 2019. The Department and Grantee enter into this Grant Agreement to provide the not to exceed funding identified in this Grant Agreement and set forth the terms and conditions upon which the grant will be administered.

### 2. Authorized Signatories

The Department Director or designee is authorized to sign this Grant Agreement and grant-related documents on behalf of the Department.

The Grantee’s Authorized Signatory or designee is authorized to sign this Grant Agreement and grant-related documents as shown in the Authorized Signatory Form (Attachment 2).

Grantees must keep Authorized Signatory Forms up to date and submit changes through email to the Department within seven (7) working days of the change. Authorized Signatory Forms will be kept on file with the Department for up to three (3) years after the final invoice has been paid and one (1) year following an audit.

### 3. Project Representatives

The project representatives during the term of this Grant Agreement:

#### A. Department

Name		Title	Phone Number	Email
[First and Last Name]		Grant Manager*	[(xxx) xxx-xxxx]	[centralized email address]

\* Unless otherwise stated within this Grant Agreement, all correspondences and documents to the Department of Conservation will be sent to the Grant Manager as described in Document Submission, Exhibit A, Section 5.

#### B. Grantee

Name	Title	Phone Number	Email
[First and Last Name]	[Title]	[(xxx) xxx-xxxx]	[Email address]
[First and Last Name]	[Title]	[(xxx) xxx-xxxx]	[Email address]

Changes to the project representatives shall be made by either the Grantee or Department by providing a five (5) day advance written notice to the other party. The written notice shall be sent through email as an attachment and to be filed with this Grant Agreement.

### 4. Grantee Responsibilities

The Grantee is responsible for ensuring grant funding for the Project is used as intended, completed on-time and within budget. Grantee responsibilities include, but are not limited to:

- Performing all tasks necessary to complete the Project, in accordance with the Budget, Award Letter which is incorporated herein and made apart hereof, and in accordance with the Grant Guidelines.
- Complying with all terms and conditions of this Grant Agreement, including all incorporated documents.
- Complying with statutes, rules, regulations applicable to this Grant Agreement.
- Ensuring there is adequate cash flow to pay all grant-related expenses before requesting reimbursement.
- Submitting final report on schedule summarizing tasks completed and deliverables met during the term of this Grant Agreement.
- Compiling and submitting invoices on schedule for payment including supporting documents as scheduled and on time.
- Maintaining an accounting system that accurately reflects all fiscal transactions, and provides a good audit trail and accounting data as specified in the Records Retention and Audit sections of Exhibit C.
- Providing all required documents during an audit as specified in the Audit section of Exhibit C.

- Retaining all records of all required documents as specified in the Records Retention section of Exhibit C.

## 5. Document Submission

### A. Electronic Mail

Please submit all documentation through electronic mail (email) unless another delivery method is required by this Grant Agreement. Correspondence and documents submitted through email must contain the Grant Agreement number and the Grantee's name in the subject line.

### B. Mail Service/Courier Service

When required by this Grant Agreement, correspondence and documents submitted through mail, certified mail or courier service must use the following address:

Department of Conservation  
Division of Land Resource Protection  
Attn: [Grant Manager's Name – Grant Agreement Number]  
801 K Street, 14th Floor, MS 14-15  
Sacramento, CA 95814

## 6. Reporting Requirements

The Grantee is required to monitor and review all work performed to meet scheduled deliverables. The Grantee must provide a final report and ensure the project is completed on schedule and within budget in accordance with this Grant Agreement.

- A. The final report must be completed using the reporting template included in this Grant Agreement (Attachment 3).
- B. Grantee is required to submit an annual endowment report.
- C. If the project falls substantially behind the implementation schedule agreed to between it and the Department, the Department may require Grantee to submit quarterly Progress Reports for the remainder of the Grant Term, unless or until this requirement is deemed to be no longer necessary by the Department. The initial Progress Report must explain why the project is behind schedule, provide an updated implementation schedule to address the delay, and describe the steps being taken to ensure that the project is continuing to move towards completion within the Grant Term. Subsequent Progress Reports shall detail the Grantee's progress toward completing the acquisition in a timely matter.
- D. All reports must be submitted to Grant Manager on the required due date. Reports are not deemed received until the Grant Manager confirms receipt of the report.

- E. All reports must be signed by the Authorized Signatory or designee on file with the Department as stated in Authorized Signatories.
- F. Reports that do not meet the reporting requirements set forth in this Grant Agreement may result in a delay in release of funds.
- G. A Final Report shall be submitted with the final Associated Costs invoice. If a grantee is not requesting reimbursement for Associated Costs, the Final Report must be submitted within 30 days of close of escrow.

## **7. Accounting and Annual Reporting of Stewardship Endowment**

The term “endowment” shall have the same meaning as that of Government Code section 65965(a), and refers to the funds conveyed solely for the long-term stewardship of the easement. The Grantee and the Department agree that the endowment has been carefully calculated to include a principle amount that, when managed and invested, is reasonably anticipated to cover the annual stewardship costs of the property in perpetuity.

By signing Attachment 9 attached hereto, the Grantee certifies that it meets the requirements of Government Code section 65968 (e). The Grantee will hold, manage, invest, and disburse solely for, and permanently restricted to, the long-term stewardship of the easement for which the funds were conveyed.

Pursuant to Government Code section 65966, the Grantee shall submit to the Department an annual Endowment Report that contains at least the following elements with respect to the endowment conveyed to the Grantee for the long-term stewardship of the easement.

- a. The balance of each individual endowment at the beginning of the reporting period;
- b. The amount of any contribution to the endowment during the reporting period including, but not limited to, gifts, grants, and contributions received;
- c. The net amounts of investment earnings, gains, and losses during the reporting period, including both realized and unrealized amounts;
- d. The amounts distributed during the reporting period that accomplish the purpose for which the endowment was established;
- e. The administrative expenses charged to the endowment from internal or third-party sources during the reporting period;
- f. The balance of the endowment or other fund at the end of the reporting period;

- g. The specific asset allocation percentages including, but not limited to, cash, fixed income, equities, and alternative investments;
- h. The most recent financial statements for the organization audited by an independent auditor who is, at a minimum, a certified public accountant; and,
- i. Any other information required by Government Code section 65966(e), as it may be amended from time to time.

Notwithstanding the limited term of the Grant Agreement, the Grantee acknowledges and consents to the above endowment reporting obligation in perpetuity, or for as long as the Grantee holds the endowment.

**EXHIBIT B**

**BUDGET DETAIL AND PAYMENT PROVISIONS**

**1. Invoicing and Payment**

**A. General Requirements.**

- i. Advance payments are not permitted under this Grant Agreement except as provided herein for Easement Acquisition Cost(s) deposited in escrow.
- ii. Only approved Associated Costs expenses incurred either during this Grant Agreement term or after \_\_\_ 2019 (grant application submission date) and no more than 180 days prior to Grant Agreement execution are reimbursable in accordance with Attachment 8 pursuant to Public Resources Code section 10231. Excluding the ALMP contribution towards the stewardship endowment, the sum of such expenses shall not exceed 10 percent of the value of the easements for which the expenses were incurred.
- iii. A draft invoice must be submitted to the Grant Manager for review prior to submission of a signed invoice. Each signed invoice must be submitted on official letterhead using the customized invoice template. The invoice must include the grant number, an itemized description of the tasks, and for the Associated Costs invoice, the time period covered by the invoice. Furthermore, costs requested in advance, in the case of the easement acquisition invoice, or for reimbursement, in the case of the Associated Costs invoice, must be consistent with the Budget.
- iv. Invoices must be signed by the Authorized Signatory or Authorized Designee. If there is a question as to the authority of the signer that cannot be resolved to the satisfaction of the Department, the invoice will not be accepted.
- v. Invoices are subject to approval and audit by the Department. If an invoice is disputed, the Department shall contact the Grantee within fifteen (15) working days of receipt of the invoice. The Department will not reimburse the Grantee for any time it spends correcting invoices or amending this Grant Agreement

**B. Invoices.**

- i. Easement Acquisition Costs. Upon notification by the Department that the conditions set forth in the "Easement Acquisition Costs" of the Conditions of Funding Disbursal attachment (Attachment 4) have been satisfied, the Grantee shall submit an invoice for the Easement Acquisition Cost to the Department using the Department's easement acquisition invoice template (Attachment 5). The

invoice for the Easement Acquisition Cost(s) shall not include any Associated Costs.

- a. The actual Easement Acquisition Cost will be based upon and shall not exceed the value described in the most recent appraisal at the time of closing. The Department's portion of the Easement Acquisition Cost shall not exceed the amount approved as set forth in Attachment 8. If the final appraisal contains an easement value that is greater than the estimate contained in Attachment 8, the difference will need to be covered by landowner donation and/or by other funding sources.
  - b. The Grantee may be required by the Department to obtain an updated appraisal if the effective date is not within 12 months of the escrow closing date.
  - c. The easement acquisition must occur within the Grant Term of this Grant Agreement and must be for the Project.
- ii. Associated Costs. Reimbursement for Associated Costs is conditioned upon the acquisition of the agricultural conservation easement(s). If this Grant Agreement is terminated prior to the acquisition of the agricultural conservation easement(s), the Grantee cannot be reimbursed for any Easement Acquisition Cost(s) or Associated Costs incurred.
- a. Once the Department has received all the documents described in the "Associated Costs" portion of the Conditions of Funding Disbursal attachment (Attachment 4), the Grantee shall request reimbursement for the Associated Costs by preparing an Associated Costs invoice using the Department's Associated Costs Invoice template (Attachment 6) and submitting it to the Department.
  - b. Only the cost for the appraisal approved by the state and used as the basis of the Easement Acquisition Cost is eligible for reimbursement. Notwithstanding anything to the contrary in this Grant Agreement, appraisal costs incurred prior to the application submission date and the beginning of the grant term are eligible for reimbursement if included in the application.
- iii. Associated Costs Invoice Supporting Documentation.
- a. Copies of the final escrow closing statement, proof of purchase receipts, sufficiently detailed subcontractor's invoices, activity logs, timesheets, or canceled check must be submitted for each item requested to be reimbursed. These items must contain sufficient information to establish that the specific service was rendered or purchase was made. Original supporting documentation is not required and should be retained by the Grantee.
  - b. Records documenting time spent shall identify the individual performing the work, the date on which the work was performed, the specific grant-related



activities or objectives to which the individual's time was devoted, the hourly rate, and the amount of time spent. Such records shall reflect actual time spent, rather than that which was planned or budgeted.

## **2. Invoice Dispute**

- A.** In the event of an invoice dispute, the Grant Manager will notify the Grantee by phone and follow up in writing via an Invoice Dispute Notification (Attachment 7) within fifteen (15) working days of receipt of the disputed invoice. During the invoice dispute, both parties shall deal in good faith to resolve the dispute. The Grantee shall continue the responsibilities and obligations under the terms of this Grant Agreement during the dispute.
- B.** If the Grantee contests the decision made by the Grant Manager, the Grantee shall submit, in writing, a "Notice of Dispute" as stated in Dispute Resolution found in Exhibit D, Section 5B.

## **3. Budget Contingency Clause**

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

## **4. Cost Principles**

- A.** Direct costs and administrative costs incurred during the term of this Grant Agreement will be eligible for compensation. Direct costs may include, but are not limited to: Easement purchase price, reasonable costs associated with the acquisition of an easement including fully-burdened staff time for easement negotiation, title work, and project mapping, technical and legal consulting, appraisal, preliminary title report, baseline conditions report, escrow fees, title insurance fees, surveys, environmental site assessment(s), mineral remoteness evaluations. Administrative costs may include, but are not limited to staff salaries and benefits, and other resources used to administer the grant. "Administration of the grant" may include, but is not limited to: activities required for coordinating partner relationships, reporting, invoicing, etc.
- B.** Indirect costs are not eligible for reimbursement. Indirect costs are defined as expenses of doing business that are of a general nature and are incurred to benefit

at least two or more functions within an organization. These costs are not directly tied to this Grant Agreement but are necessary for the general operation of the organization. Examples of indirect costs may include, but are not limited to: Indirect overhead, ceremonial expenses including food and beverages, travel, expenses for publicity, bonus payments of any kind, interest expenses, damage judgments arising from acquisition, construction or equipping of a facility whether determined by judicial process, arbitration, negotiation or otherwise, services, materials or equipment obtained under any other State of California program, real estate brokerage fees and/or expenses, stewardship or legal defense funds, or signs.

## 5. Amendments

The Grantee must request and obtain prior written approval before any amendment, including changes to staffing or Grantee name changes, of this Grant Agreement is valid.

### A. Request for amendments must:

- i. be prepared, in writing, on official letterhead and signed by the Authorized Signatory or designee on file with the Department;
- ii. be submitted through email to the Grant Manager at least three (3) months prior to when the amendment is needed, but not less than six (6) months prior to the Grant Agreement end date;
- iii. include the Grant Agreement number, a detailed explanation of the proposed amendment, reason for the amendment, and the effect of not approving the request; and
- iv. include copies of the document(s) to amend and revised document(s) with those changes.

**B.** The Grant Manager shall respond in writing through email within seven (7) days from receipt of request to approve or deny the request for amendment, including the reason for the decision.

**C.** The Grant Manager will process amendments within thirty (30) days of the approval date. The amendment will not be in effect until both parties have signed the Grant Agreement amendment.

**EXHIBIT C**

**GENERAL TERMS AND CONDITIONS**

**1. Approval**

This Grant Agreement is of no force or effect until signed by both parties.

**2. Amendment**

No amendment or variation of the terms of this Grant Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Grant Agreement not incorporated in this Grant Agreement is binding on any of the parties.

**3. Assignment**

This Grant Agreement is not assignable by the Grantee, either in whole or in part, without the consent of the Department and the Authority in the form of a formal written amendment.

**4. Records Retention**

- A.** The Grantee shall establish an official file containing adequate documentation of all actions taken with respect to the Project, including copies of the Grant Agreement, amendments, modifications, letters, email correspondences, financial records, documents and required reports for a minimum of three (3) years following the final payment of funds or until completion of any action and resolution of all issues which may arise as a result of an audit, whichever is later.
- B.** The Grantee shall adequately protect all records, physical and electronic from loss, damage or destruction during the three (3) year retention period.

**5. Audit**

- A.** Grant funded projects are subject to audit by the State of California at least annually for three (3) years. Grantee agrees that the Authority, Department, Department of Finance, Bureau of State Audits, Federal Railroad Administration, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Grant Agreement. The audit will consist of examining and auditing pertinent books, documents, papers and records including financial transactions and supporting documents, general accounting systems, internal controls, management practices, policies and procedures pertaining to the performance of this Grant Agreement.
- B.** At any time, the Authority, Department, Department of Finance, Bureau of State Audits, Federal Railroad Administration, or their designated representative may request to review Grantee's records to ensure proper grant management. The

Grantee shall be given advance notice when the grant funded Project is selected for an audit or review by the Authority, Department, Department of Finance, Bureau of State Audits, Federal Railroad Administration, or their designated representative. The Grantee agrees to allow the auditor(s) access to such records during normal business hours, excluding State of California holidays, and to allow interviews of any employees who might reasonably have information related to such records. Further, the Grantee agrees to include a similar right of the Department to audit records and interview staff in any subcontract related to performance of this Grant Agreement in accordance with Government Code section 8546.7. The Grantee shall comply with the above and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code section 10115.10.

## **6. Indemnification**

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

Grantee agrees to waive any claims of any kind, present and future, against the Authority related to the Project. DOC agrees to defend, indemnify and hold harmless the Authority from any claims, demands, or suits of any kind from Grantee related to this Grant Agreement or the Project.

## **7. Disputes**

Grantee shall continue with the responsibilities under this Grant Agreement during any dispute.

## **8. Independent Grantee**

Grantee, and the agents and employees of Grantee, in the performance of this Grant Agreement, shall act in an independent capacity and not as officers or employees or agents of the Department.

## **9. Non-Discrimination Clause**

During the performance of this Grant Agreement, Grantee and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Grantee and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and subcontractors shall comply with the provisions of the Fair Employment and

Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Grant Agreement by reference and made a part hereof as if set forth in full. Grantee and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Grant Agreement.

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

## **10. Timeliness**

Time is of the essence in this Grant Agreement.

## **11. Governing Law**

This Grant Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

## **12. Unenforceable Provision**

If any provision of this Grant Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Grant Agreement have force and effect and shall not be affected thereby.

**EXHIBIT D**

**SPECIAL TERMS AND CONDITIONS**

**1. Compliance with Laws and Regulations**

By signing this Grant Agreement, the Grantee certifies that it shall comply fully with all applicable federal, state and local laws, ordinances, regulations and permits and shall secure any new permits required by authorities having jurisdiction over the Project(s), and maintain all presently required permits. The Grantee shall ensure that any applicable requirements of the California Environmental Quality Act are met in order to carry out the terms of this Grant Agreement.

**2. Subcontractors**

The Department's contractual relationship is with the Grantee, and not any of its subcontractors. The Grantee is entitled to make use of its own staff and subcontractors, and will comply with its own competitive bidding and sole sourcing requirements for subcontracts that arise out of or in connection with this Grant Agreement. The Grantee shall manage, monitor, and accept responsibility for the performance of its own staff and subcontractors, and will conduct Project activities and services consistent with professional standards for the industry and type of work being performed under this Grant Agreement.

Any requests to add or modify subcontractors requires file documentation that the proposed subcontractor was selected in compliance with the Grantee's competitive bidding and sole sourcing requirements.

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

**3. No Third Party Beneficiaries**

This Grant Agreement is not intended for the benefit of any person or entity other than the parties, and no one other than the parties themselves may enforce any of the rights or obligations created by this Grant Agreement.

#### **4. Project Monitoring and Oversight**

Project monitoring and oversight is essential to ensure the Project stays within scope and completed on schedule and within budget in accordance with this Grant Agreement. The Department and Grantee will work collaboratively to ensure the Grant is administered and easement acquired within the Grant Term.

#### **5. Dispute Resolution**

In the event of a dispute, both parties shall deal in good faith and attempt to resolve all disputes informally. During a dispute, the Grantee shall continue the responsibilities and obligations under the terms of this Grant Agreement during a dispute.

- A.** The Grantee shall first attempt to resolve the dispute with the Grant Manager.
- B.** If the Grantee contests the decision made by the Grant Manager, the Grantee must submit, in writing, a “Notice of Dispute” on official letterhead to the Division Director, Division of Land Resource Protection or it’s designee.
  - i. The dispute notification shall include:
    - a. the Grant Agreement number;
    - b. a complete description of the basis for the dispute;
    - c. legal authority or pertinent facts, supporting arguments and documentation;
    - d. action requested for resolution; and
    - e. an “Authorized Signatory” on file with the Department.
  - ii. The dispute notification shall be sent to:

Department of Conservation  
Division of Land Resource Protection  
Attn: Division Director  
801 K Street, 14<sup>th</sup> Floor, MS 14-15  
Sacramento, CA 95814
  - iii. Within 30 days after receipt of the “Notice of Dispute,” the Division Director or it’s designee shall review the dispute and submit a written decision to the Grantee which shall include:
    - a. the decision made;
    - b. an explanation for the decision in accordance with this Agreement; and
    - c. whether the decision shall be conclusive and binding or can be appealed and the steps to take to appeal the decision.

## 6. Term and Termination

- A. The Grant Agreement Term may be extended by a maximum of one year.
- B. **Completion of Project.** This Grant Agreement shall automatically terminate upon:  
(i) expiration of the term; or (ii) payment of the final invoice by the Department, or, should no Associated Costs be requested in this Grant Agreement, upon the Department's acceptance and approval of the Grantee's Final Report.
- C. **Without Cause.** Either Party may terminate this Grant Agreement without cause upon thirty (30) days advance written notice by certified mail to the other Party. The notice shall specify the reason for early termination and may permit the Grantee or the Department to rectify any deficiency(ies) prior to the early termination date.
- D. **For Cause.** The Department may terminate this Grant Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Grant Agreement at the time and in the manner herein provided.

## 7. Severability

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

## 8. Waiver of Rights

- A. The Grantee waives any and all rights to any type of express or implied indemnity or right of contribution from The Department, officers, agents or employees, for any liability arising from, growing out of, or in any way connected with this Grant Agreement.
- B. The Grantee waives all claims and recourses against The Department, including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this Grant Agreement, except claims arising from the gross negligence of The Department, its officers, agents, and employees.
- C. None of the provisions of this Grant Agreement shall be deemed waived unless expressly waived in writing.

## 9. Insurance Requirements

- A. A Grantee that is a governmental organization may provide evidence of self-insurance to satisfy this requirement.
- B. If the Grantee is not a governmental organization or is unable to provide evidence of self-insurance, then it shall obtain and keep in force for the term of this Agreement the following insurance policies that cover any acts or omissions of the Grantee, its



subcontractors or its employees engaged in the provision of service specified in this Agreement:

- i. Worker's Compensation Insurance in an amount of not less than \$1,000,000 in accordance with the statutory requirement of the State of California (California Labor Code § 3700 et seq.)
  - ii. Commercial general liability insurance in an amount of not less than \$1,000,000 per occurrence for bodily injury and property damage combined.
  - iii. Motor vehicle liability with limits not less than the amounts below combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired, and non-owned motor vehicles.
    - 7 or fewer passengers: \$1,000,000
    - 8-15 passengers: \$1,500,000
    - 16+ passengers: \$5,000,000
- C.** The State of California, its officers, agents and employees are included as additional insured, but only with respect to work performed for the State of California under this Grant Agreement. The additional insured endorsement must accompany the certificate of insurance.
- D.** The Grantee shall submit proof of insurance documents to the Department electronically within thirty (30) days of signing this Grant Agreement.
- E.** The Grantee shall notify the Department in writing electronically within five (5) business days of any cancellation, non-renewal or material change that affects required insurance coverage.
- F.** The Grantee shall submit electronically proof of new or updated policy based on insurance requirements within thirty (30) days of policy cancellation or substantial policy change. Failure to provide proof of insurance may result in termination of this Grant Agreement.

## **10. Stop Work**

In the event that it is determined at the sole discretion of the Department that the Grantee is not meeting the terms and conditions of this Grant Agreement, immediately upon receiving a written notice through certified mail from the Department to stop work, the Grantee shall cease all work under this Grant Agreement. The State has the sole discretion to determine that the Grantee meets the terms and conditions after a stop work order, and to send through certified mail a written notice to the Grantee to resume work under this Grant Agreement.

## **11. Publicity**

The Grantee agrees that it will acknowledge the California Department of Conservation's and the California High-Speed Rail Authority's support whenever projects funded, in whole or in part, by this Grant Agreement are publicized in any news media, brochures, articles, signage, seminars, or other type of written material.

## **12. Drug-Free Workplace Certification**

Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- A.** Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- B.** Establish a Drug-Free Awareness Program to inform employees about:
  - i. the dangers of drug abuse in the workplace;
  - ii. the person's or organization'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 for drug abuse violations.
- C.** Every employee who works on this Grant Agreement will:
  - i. receive a copy of the company's drug-free workplace policy statement; and,
  - ii. agree to abide by the terms of the company's statement as a condition of employment on this Grant Agreement.

Failure to comply with these requirements may result in suspension of payments under this Grant Agreement or termination of this Grant Agreement or both and Grantee may be ineligible for award of any future State of California agreements if the department determines that any of the following has occurred: the Grantee has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

## **13. Americans with Disabilities Act**

Grantee assures The Department that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

## **14. Air/Water Pollution Violation Certification**

Under State of California laws, the Grantee shall not be: (1) in violation of any order or resolution not subject to review promulgated by the California Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

#### **15. Payee Data Record Form - STD 204**

This form must be completed by all Grantees that are not another state agency or other governmental entity.

**ATTACHMENT 1**

**Project Map**

**ATTACHMENT 2**

**AUTHORIZED SIGNATORY FORM**

I hereby verify that I am an authorized Grantee representative and signatory and as such can sign and/or delegate authorization to sign and bind the Grantee as it relates to the above-referenced Grant Agreement and grant related documents.

---

**Grantee Authorized Signatory:**

**Name:** \_\_\_\_\_  
*(Type or Print Name)*

**Title:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

---

**Delegated Authorized Signatories:**

1. **Name:** \_\_\_\_\_  
*(Type or Print Name)*

**Title:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Document(s) Authorized to sign:**  All Grant Related Documents **or**  Grant Agreement  
 Grant Amendments  Budget Amendments  Reports  
 Invoices  Other \_\_\_\_\_

---

2. **Name:** \_\_\_\_\_  
*(Type or Print Name)*

**Title:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Document(s) Authorized to sign:**  All Grant Related Documents **or**  Grant Agreement  
 Grant Amendments  Budget Amendments  Reports  
 Invoices  Other \_\_\_\_\_

**ATTACHMENT 3**

Department of Conservation  
Division of Land Resource Protection

Grantee: \_\_\_\_\_

**AGRICULTURAL CONSERVATION EASEMENT FINAL REPORT**

Grantee \_\_\_\_\_

Project Title \_\_\_\_\_ Grant Number \_\_\_\_\_

Final closing date of the project \_\_\_\_\_

*Please include copies of news articles and any other media coverage, as well as any promotional and educational materials produced as a result of this grant agreement that have not already been submitted. A request for final payment should be submitted in conjunction with, but not as a portion of, the final report.*

1. Give a brief summary the organization, the objectives of the project, and how these objectives were accomplished.
2. State the amount awarded and how the funds were used.
3. Describe any problems and/or concerns that may have arisen during the course of this project and the corrective actions that were taken.
4. List any findings, conclusions, or recommendations for follow-up or ongoing activities that might result from the successful completion of the project.
5. Present a summary of project successes.
6. Please offer any feedback or suggestions for improvement that may assist future administration of grant funds by the Department.

## ATTACHMENT 4

### CONDITIONS OF FUNDING DISBURSAL

**Easement Acquisition Cost(s).** The Department will disburse the funds for the Easement Acquisition Cost(s) to the escrow account established with a title insurance company licensed by the California Department of Real Estate, for purchase of the agricultural conservation easement(s) funded through this grant only when the following conditions have been met:

- A.** California Department of General Services has approved the appraisal:
- i. Grantee has provided the Department with an electronic copy and one hard copy of the appraisal; and,
  - ii. The appraisal complies with the Department's *Overview and Preparation of Agricultural Conservation Easement Appraisals* and DGS's *Appraisal Specifications*, as determined by the Department.
- B.** Department has approved or has incorporated Department approval of the following into the joint escrow instructions as conditions of closing:
- i. Final draft agricultural conservation easement including all exhibits/attachments and any title exceptions that the easement will be subject to;
  - ii. Pro forma title policy;
  - iii. Any subordination agreements and documents needed to resolve title-related issues identified by the Department or Grantee;
  - iv. Final draft Baseline Documentation Report;
  - v. Estimated escrow closing statement;
  - vi. Joint escrow instructions that, at a minimum, require the following as conditions prior to either disbursing escrow funds or closing escrow, depending on the task:
    - a. Subordination or release of all senior liens or financial encumbrances on the property;
    - b. Escrow officer's signature acknowledging receipt of the instructions and agreeance to act in accordance therewith;
    - c. Recordation of the agricultural conservation easement(s) immediately upon close of escrow;
    - d. Issuance of a title insurance policy, naming the Department as an additional insured for the full amount of the appraised value of the easement, with no exceptions to title other than those identified in the Proforma approved by the Department;
    - e. Provision that the escrow officer provide a copy of the recorded easement, final title policy, recorded subordination documents, final escrow closing statement, and any other items that the Department may require to the Department within 30 days of closing; and,
    - f. Provision that, should the easement not be conveyed to the grantee, all ALMP funds will be returned to the Department.

- C. Grantee has authorized the responsible title and/or escrow officer to communicate with the Department regarding the escrow associated with the agricultural conservation easement transaction.



**ATTACHMENT 5**

[Format on Grant Recipient Letterhead]

**EASEMENT ACQUISITION INVOICE [TEMPLATE]**

**TO:** Department of Conservation  
Division of Land Resource Protection  
Attn: \_\_\_\_\_ (grant manager)  
801 K Street, MS 14-15  
Sacramento, CA 95814

**Date:** \_\_\_\_\_

**Grant No.:** \_\_\_\_\_

**Invoice No.** \_\_\_\_\_

=====

Please remit \$ \_\_\_\_\_ to [Title Company] for the purchase of an agricultural conservation easement on \_\_\_\_\_ Farm/Ranch in \_\_\_\_\_ County.

[Title Company]  
[address]  
[phone number]

Escrow No.: \_\_\_\_\_

Match funding for the easement acquisition will be provided by the \_\_\_\_\_ at \$ \_\_\_\_\_.

**Total request in this invoice:**            \$ \_\_\_\_\_

\_\_\_\_\_  
Name of Grant Agreement Signatory or Designee  
Title

**ATTACHMENT 6**

**Associated Costs Invoice**

[FORMAT ON GRANT RECIPIENT LETTERHEAD]

**ASSOCIATED COSTS INVOICE [TEMPLATE]**

**TO:** Department of Conservation  
Division of Land Resource Protection  
Attn: \_\_\_\_\_ (grant manager)  
801 K Street, MS 14-15  
Sacramento, CA 95814

**Date:** \_\_\_\_\_

**Grant No:** \_\_\_\_\_

**Invoice No:** \_\_\_\_\_

For expenditures under this grant during the timeframe: \_\_\_\_\_

*[Note: The actual invoice line items for Associated Costs should correspond exactly to the line items listed in the Grant Agreement Budget page.]*

	ALMP	Other Funds
<b>Associated costs</b>		
<b>Totals</b>	<b>\$</b>	<b>\$</b>

**Total reimbursement request in this invoice:** \$ \_\_\_\_\_

\_\_\_\_\_  
Name of Grant Agreement Signatory or Designee  
Title

**ATTACHMENT 7**

**INVOICE DISPUTE NOTIFICATION**

<b>GRANTEE ADDRESS</b>		INVOICE DATE
		INVOICE NUMBER
		INVOICE AMOUNT \$
		DATE INVOICE RECEIVED
		GRANT AGREEMENT NUMBER

The invoice referenced above is disputed for the following reasons:

- |  |  |
|--|--|
| <input type="checkbox"/> Request reimbursement for expenses not in the Budget Detail | <input type="checkbox"/> Invoiced for indirect cost reimbursement                  |
| <input type="checkbox"/> Invoiced for incidental costs or travel costs outside of CA | <input type="checkbox"/> Work performed prior to the Grant start or end date       |
| <input type="checkbox"/> Insufficient evidence of progress made or task completion   | <input type="checkbox"/> Invoice submitted without using required templates        |
| <input type="checkbox"/> Insufficient supporting document for reimbursement          | <input type="checkbox"/> Progress Report or Final Report not included with invoice |
| <input type="checkbox"/> Invoice not submitted by 5:00 p.m. on the required due date | <input type="checkbox"/> Request reimbursement through another funding source      |
| <input type="checkbox"/> Other not listed above:                                     |  |

Comments:

**THIS NOTIFICATION IS A FOLLOW UP TO A PHONE CONVERSATION WITH THE GRANTEE OR DESIGNEE WHOSE NAME APPEARS BELOW.**

NAME	DATE OF CONVERSATION
------	----------------------

**IF YOU HAVE ANY QUESTIONS REGARDING THIS DISPUTE, CONTACT:**

NAME	TELEPHONE NUMBER (include Area Code)
------	--------------------------------------

<b>RETURN A COPY OF THIS NOTIFICATION WITH THE CORRECTED INVOICE TO:</b>	<b>STATE OF CALIFORNIA USE ONLY</b>	
	DATE DISPUTE RESOLVED	INITIALS
	RESOLUTION	

**ATTACHMENT 8**

**BUDGET**

(Page 1 of 2)

**Easement Acquisition Costs**

	<b>ALMP Funding</b>	<b>Other Funding</b>	<b>Total</b>
Agricultural Conservation Easement	\$	\$	\$
<i>Subtotal (Easement Acquisition)</i>	\$	\$	\$

**Associated Costs**

Please see Section 2 of the ALMP Guidelines for a complete list of eligible associated costs.  
 Details regarding subcontractors and staff will be entered on the next page

Appraisal	\$	\$	\$
Title, Escrow & Closing	\$	\$	\$
Baseline Conditions Report	\$	\$	\$
Staff & Subcontractors	\$	\$	\$
Surveys	\$	\$	\$
Stewardship Funds	\$	\$	\$
<i>Subtotal (Associated Costs)</i>	\$	\$	\$

**Total Funding**

Use the subtotals from the tables above to complete the table below

Subtotal: Easement Acquisition	\$	\$	\$
Subtotal: Associated Costs	\$	\$	\$
<b>GRAND TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

**BUDGET**  
 (Page 2 of 2)

<b>Subcontractors</b>	<b>Rate</b>	<b>Hours</b>	<b>Total</b>
<b>Total</b>			
<b>Staff</b>	<b>Rate</b>	<b>Hours</b>	<b>Total</b>
<b>Total</b>			

**ATTACHMENT 9**

**Endowment Holder Certification**

Pursuant to Government Code section 65968 (e), the holder of the endowment shall certify that it meets all of the following requirements:

- (1) The holder has the capacity to effectively manage the mitigation funds.
- (2) The holder has the capacity to achieve reasonable rates of return on the investment of those funds similar to those of other prudent investors for endowment funds and shall manage and invest the endowment in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances, consistent with the Uniform Prudent Management of Institutional Funds Act (Part 7 (commencing with Section 18501) of Division 9 of the Probate Code).
- (3) The holder utilizes generally accepted accounting practices as promulgated by either of the following:
  - (A) The Financial Accounting Standards Board or any successor entity for nonprofit organizations.
  - (B) The Governmental Accounting Standards Board or any successor entity for public agencies, to the extent those practices do not conflict with any requirement for special districts in Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5.
- (4) The holder will be able to ensure that funds are accounted for, and tied to, a specific property.
- (5) If the holder is a nonprofit organization, a community foundation, or a congressionally chartered foundation, it has an investment policy that is consistent with the Uniform Prudent Management of Institutional Funds Act (Part 7 (commencing with Section 18501) of Division 9 of the Probate Code).

<i>Name of Endowment Holder (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

## ATTACHMENT 10

### **REGULATIONS FOR CONTRACTS RECEIVING FEDERAL FUNDING AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA)<sup>1</sup>**

#### **A. FEDERAL REQUIREMENTS**

1. The Grantee (“Contractor”) for purposes of Exhibit H understands that the Authority has received Federal funding from FRA for the Project and acknowledges that it is required to comply with all applicable federal laws, regulations, policies and related administrative practices, whether or not they are specifically referenced herein. The Contractor acknowledges that federal laws, regulations, policies and related administrative practices may change and that such changed requirements will apply to the Project.
2. Notwithstanding anything to the contrary contained in the Contract Documents, all FRA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the Contract Documents. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Department or Authority requests, which would cause the Department or Authority to be in violation of FRA requirements.

#### **B. COMPLIANCE WITH FEDERAL REQUIREMENTS**

1. The Contractor's failure to so comply shall constitute a material breach of this Contract.

#### **C. ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES**

1. The Contractor agrees to comply with all applicable requirements regarding Access for Individuals with Disabilities contained in the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; 49 U.S.C. § 5301(d); and any other applicable federal regulations, including any amendments thereto.

#### **D. ENVIRONMENTAL REQUIREMENTS**

1. The Contractor shall comply with all applicable environmental requirements and regulations, including any amendments, as follows:

#### **E. CLEAN AIR**

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Department or Authority, and understands and agrees that the Authority shall, in turn, report each violation as

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<sup>1</sup> The terms and conditions set forth in this Attachment 10 are only applicable to Grantee activities funded by the Endowment Fund (referred to in Attachment 10 as “Project”). For purposes of Attachment 10, Grant Agreement is also referred to as “Agreement” and Grantee is also referred to as “Contractor”.

required to assure notification to the Federal Railroad Administration (FRA) and the appropriate Environmental Protection Agency Regional Office.

**F. CLEAN WATER**

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Department or Authority, and understands and agrees that the Authority shall, in turn, report each violation as required to assure notification to the FRA and the appropriate EPA Regional Office.

**G. ENERGY CONSERVATION**

1. The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6421 et seq.).

**H. AGREEMENT NOT TO USE VIOLATING FACILITIES**

1. The Contractor agrees not to use any facility to perform work hereunder that is listed on the List of Violating Facilities maintained by the Environmental Protection Agency ("EPA"). The Contractor shall promptly notify the Department or Authority if it receives any communication from the EPA indicating that any facility which will be used to perform work pursuant to this Contract is under consideration to be listed on the EPA's List of Violating Facilities; provided, however, that the Contractor's duty of notification hereunder shall extend only to those communications of which it is aware, or should reasonably have been aware.

**I. ENVIRONMENTAL PROTECTION**

1. The Contractor shall comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 et seq.

**J. RECYCLED PRODUCTS**

1. The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. § 6962), including the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247.

**K. FRAUD AND FALSE OR FRAUDULENT STATEMENTS, AND RELATED ACTS**

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986 (6 C.F.R. 13), as amended, 31 U.S.C. § 3801 et seq., and USDOT regulations Program Fraud Civil Remedies (49 C.F.R. Part 31), apply to its actions pertaining to this Project. Upon execution of the underlying Contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FRA



assisted project for which this Contract Work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 as cited above on the Contractor to the extent the Federal Government deems appropriate.

2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FRA, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

**L. NO OBLIGATION BY THE FEDERAL GOVERNMENT**

1. The Authority and the Contractor acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the federal government, the federal government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Authority, Contractor, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the underlying Contract.

**M. PROPERTY, EQUIPMENT AND SUPPLIES**

1. Unless otherwise approved by FRA, the following conditions apply to property, equipment, and supplies financed under this Agreement:
  - a. Use of Property. The Contractor agrees that Project property, equipment, and supplies shall be used for the provision of the Project activity for the duration of its useful life, as determined by the Authority. Should the Contractor unreasonably delay or fail to use Project property, equipment, or supplies during its useful life, the Contractor agrees that the Authority may require the Contractor to return the entire amount of FRA assistance through the Authority fund source, expended on that property, equipment, or supplies. The Contractor further agrees to notify the Authority and the Department immediately when any Project property or equipment is withdrawn from use in the Project activity or when such property or equipment is used in a manner substantially different from the representations made by the Contractor in its application or the text of this Agreement.
  - b. General Federal Requirements. A Contractor that is not a governmental entity agrees to comply with the property standards of 49 CFR 19.30 through 19.37 inclusive, including any amendments thereto, and other applicable guidelines or regulations that are issued.
  - c. For a complete list of terms and conditions for the use of property, equipment and supplies, using federal financial assistance, refer to the FRA Grant/Cooperative Agreement (FR-HSR-0009-10-01-00) General Provisions, Attachment 2, Section 8., Property, Equipment and Supplies.

**N. DEBARMENT AND SUSPENSION**

1. This Contract is a covered transaction for purposes of 2 C.F.R. 1200. As such, the Contractor is required to comply with applicable provisions of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopt and supplement the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement)," 2 C.F.R. Part 180.
2. To the extent required by the aforementioned U.S. DOT regulations and U.S. OMB guidance, the Contractor hereby certifies that it is not excluded or disqualified in accordance with said regulations by reviewing the "Excluded Parties Listing System" at <http://epls.gov/>. The Contractor shall obtain appropriate certifications from each such Subcontractor and provide such certifications to the Authority.
3. The Contractor shall include a term or condition in the contract documents for each lower tier covered transaction, assuring that, to the extent required by the U.S. DOT regulations and U.S. OMB guidance, each Subcontractor will review the "Excluded Parties Listing System," will obtain certifications from lower tier Subcontractors, and will include a similar term or condition in each of its lower-tier covered transactions.

**O. DISABILITIES**

1. In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FRA may issue.
2. The Contractor also agrees not to discriminate on the basis of drug abuse, in accordance with the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, alcohol abuse, in accordance with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, and to comply with Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records. In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.

**P. CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS**

1. The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the federal government under any contract:
  - a. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552(a). Among other things, the Contractor agrees to obtain the express consent of the federal government before the Contractor or its employees operate a system of records on behalf of the federal government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

**Q. DISADVANTAGED BUSINESS ENTERPRISES**

1. Notwithstanding anything to the contrary in the Contract Documents, this Section Q shall apply only if and when the Project receives Federal funding.
2. The Department encourages the Contractor to utilize small business concerns owned and controlled by socially and economically disadvantaged individuals (as that term is defined for certain USDOT agencies in Title VI) in carrying out the Project.
3. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of Title VI in the award and administration of this FRA DOT-assisted Contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the Department deems appropriate.

**R. PAYROLLS AND BASIC RECORDS**

1. Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the Work and preserved for a period of six years thereafter for all laborers and mechanics working at the site of the Work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 C.F.R. § 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. The Contractor or Subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
2. The Contractor shall submit weekly for each week in which any Contract Work is performed a copy of all payrolls to the Authority for transmission to the Federal Railroad Administration (FRA). The Contractor is also responsible for the submission of copies of payrolls by all Subcontractors.

The payrolls submitted shall set out accurately and completely all of the information required to be maintained under Section 5.5(a)(3)(i) of 29 C.F.R. Part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402.

3. Each payroll submitted shall be accompanied by a Statement of Compliance signed by the Contractor or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract, and shall certify the following:

That the payroll for the payroll period contains the information required to be maintained under Section 5.5(a)(3)(i) of 29 C.F.R. Part 5, and that such information is correct and complete

That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 C.F.R. Part 3

That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract

4. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (ii)(B) of this section.
5. The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.
6. The Contractor or Subcontractor shall make the records required under paragraph (i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Railroad Administration (FRA), the Department of Labor (DOL), and the Authority, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or Subcontractor fails to submit the required records or to make them available, the federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 C.F.R. § 5.12.

**S. Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Nationality Act Provisions and Use of an Electronic Employment Eligibility Verification System**

The Contractor shall comply with the requirements of Executive Order No. 12989, as amended, which are incorporated by reference in this Contract, to use an electronic employment verification system as designated by the Secretary of Homeland Security. This system has been designated to be the United States Citizenship and Immigration Service (USCIS) E-Verify System. The Contractor is further required to comply with the Federal Acquisition Regulations, as amended, which require compliance with the E-Verify System and its requirements.

**T. Subcontracts**

The Contractor shall insert in any Subcontracts the clauses contained in 29 C.F.R. §§ 5.5(a)(1) through (10) and such other clauses as the Federal Railroad Administration may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower-tier Subcontracts. The Contractor shall be responsible for the compliance by any Subcontractor or lower-tier Subcontractor with all the contract clauses in 29 C.F.R. § 5.5.

**U. Contract Work Hours and Safety Standards**

**1. OVERTIME REQUIREMENTS**

Neither the Contractor nor any Subcontractor contracting for any part of the Work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such Work to work in excess of 40 hours in such workweek unless such laborer or mechanic

receives compensation at a rate not less than one and one-half (1 1/2) times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**2. VIOLATION, LIABILITY FOR UNPAID WAGES, LIQUIDATED DAMAGES**

In the event of any violation of the clause set forth in Section 1, the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Contractor and Subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in Section 1, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in Section 1.

**3. WITHHOLDING FOR UNPAID WAGES AND LIQUIDATED DAMAGES**

The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such Contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in Section 2.

**4. FINAL LABOR SUMMARY**

The Contractor and each Subcontractor shall furnish to the recipient, upon the completion of the Work, a summary of all employment, indicating for the completed Project, the total hours worked and the total amount earned.

**5. FINAL CERTIFICATION**

Upon completion of the Work, the Contractor shall submit to the Authority with the voucher for final payment for any work performed, a certificate concerning wages and classifications for laborers and mechanics, including apprentices and trainees employed on the Project, in the following form:

THE UNDERSIGNED CONTRACTOR ON CONTRACT:

hereby certifies that all laborers,  
mechanics,

\_\_\_\_\_

apprentices, and trainees employed by him or by a Subcontractor performing Work on the Project have been paid wages at rates not less than those required by the Contract Documents, and that the Work performed by each such laborer, mechanic, apprentice or trainee conformed to the classifications set forth in the Contract Documents or training program provisions applicable to the wage rate paid.

SIGNATURE:

PRINTED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**6. NOTICE TO THE RECIPIENT OF LABOR DISPUTES**

Whenever the Contractor has acknowledged that any actual or potential labor dispute is delaying or threatens to delay the timely performance of the Work, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Authority.

**7. SAFETY**

Pursuant to Section 107 of the Contract Work Hours and Safety Standards Act and Department of Labor Regulations at 29 CFR Part 1926, no laborer or mechanic working on this Contract shall be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to their health and safety as determined under applicable health standards promulgated by the Secretary of Labor. The Contractor and any subcontractors shall comply with OSHA regulations applicable to the Contractor or subcontractor regarding necessary safety equipment or procedures, including wearing white hard hats and orange safety vests at all times while working on the construction project site.

8. **INSERTION IN SUBCONTRACTS**

The Contractor shall insert in any Subcontracts the clauses set forth in Sections 1 through 7 of this “Contract Work Hours and Safety Standards” clause (Section R), and also a clause requiring the Subcontractors to include these clauses in any lower-tier Subcontracts. The Contractor shall be responsible for compliance by any Subcontractor (including any lower-tier Subcontractor) with the clauses set forth in Sections 1 through 7.

9. **SITE VISITS**

The Contractor agrees that FRA, through its authorized representatives, has the right, at all reasonable times, to make site visits to review Project accomplishments and for other reasons. If any site visit is made by FRA on the premises of the Contractor or any of its subcontractors under this Contract, the Contractor shall provide and shall require its subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of FRA representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner as will not unduly delay work being conducted by the Contractor or subcontractor.

V. **Certification Regarding Lobbying**

The undersigned certifies, to the best of his or her knowledge and belief, that the following are true:

1. No federal appropriated funds have been or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying”, in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements), and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Company Name: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Company Official)

\_\_\_\_\_  
(Title of Company Official)

Note: If Joint Venture, each Joint Venture member shall provide the above information and sign the certification.

**W. Equal Employment Opportunity Certification**

[To be executed by the Contractor, all joint venture members of the Contractor]

The undersigned certifies on behalf of \_\_\_\_\_ that:

\_\_\_\_\_  
(Name of entity making certification)

[check one of the following boxes]

- It has developed and has on file at each establishment affirmative action programs pursuant to 41 C.F.R. Part 60-2 (Affirmative Action Programs).
- It is not subject to the requirements to develop an affirmative action program under 41 C.F.R. Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

- It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.
- It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114, or 11246, and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

If not the Contractor, relationship to the Contractor: \_\_\_\_\_

**X. SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING ARRA FUNDS**

**Y. ARRA-Funded Project**

Funding for this contract has been provided through the American Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. 111-5. All contractors, including both prime and subcontractors, are subject to audit by appropriate federal or State entities. The State has the right to cancel, terminate, or suspend the contract if any contractor or subcontractor fails to comply with the reporting and operational requirements contained herein.

**Z. Enforceability**

The Contractor agrees that if it fails to comply with all applicable federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the State under all applicable State and federal laws.

#### AA. **Wage Rate Requirements**

The Contractor shall fully comply with ARRA, Provision 1606, and 49 U.S.C. § 24405(c)(2), and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by, or assisted in whole or in part by, and through the federal government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with Subchapter IV of 40 U.S.C. Chapter 31 (Davis-Bacon Act). It is understood that the Secretary of Labor has the authority and functions set forth in Reorganization Plan Numbered 14 or 1950 (64 Stat. 1267; 5 U.S.C. App.) and Section 3145 of Title 40, United States Code. For Project components that use or would use rights-of-way owned by a railroad, the Contractor shall comply with the provisions of 49 U.S.C. § 24405(c)(2), with respect to the payment of prevailing wages consistent with the provisions of 49 U.S.C. § 24312. For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements. For Project components that do not use or would not use rights-of-way owned by a railroad, the Contractor will comply with the provisions of 40 U.S.C. § 3141 et seq.

#### BB. **Inspection of Records**

In accordance with ARRA Sections 902, 1514, and 1515, the Contractor agrees that it shall permit the State, the United States Comptroller General or his representative, or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to perform the following:

Examine any records that directly pertain to, and involve transactions relating to, this contract; and

Interview any officer or employee of the Contractor regarding the activities funded with funds appropriated or otherwise made available by the ARRA.

#### CC. **Whistleblower Protection**

The Contractor agrees that it shall comply with Section 1553 of the ARRA, which prohibits all non-federal contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of any of the following:

1. Gross mismanagement of a contract relating to ARRA funds
2. A gross waste of ARRA funds
3. A substantial and specific danger to public health or safety related to the implementation or use of ARRA funds
4. An abuse of authority related to implementation or use of ARRA funds

5. A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds

The Contractor agrees that it shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.

#### DD. **False Claims Act**

The Contractor agrees that it shall promptly notify the State and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, Subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.

#### EE. **Recovery Act Funding Announcement**

The Contractor shall post a sign at all fixed project locations at the most publicly accessible location announcing that the project or equipment was funded by the U.S. Department of Transportation, Federal Railroad Administration, with funds provided through the American Recovery and Reinvestment Act. The configuration of the signs or plaques will be consistent with guidance at this web site:

<http://www.fhwa.dot.gov/economicrecovery/arrasignguidance.htm>

#### FF. **Reporting Requirements**

Federal Audit Requirements:

- i. Non-Federal entities that expend (\$500,000 for fiscal years ending after December 31, 2003) or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of the Federal Office of Management and Budget (OMB), Circular No. A-133, Section 200, Audit Requirements.

Pursuant to Section 1512(c) of the ARRA, in order for state agencies receiving ARRA funds to prepare the required reports, the Contractor agrees to provide the awarding state agency with the following information on a quarterly basis:

The total amount of ARRA funds received by the Contractor during the Reporting Period

The amount of ARRA funds that were expended or obligated during the Reporting Period

A detailed list of all projects or activities for which ARRA funds were expended or obligated, including the following:

1. The name of the project or activity
2. A description of the project or activity
3. An evaluation of the completion status of the project or activity

4. An estimate of the number of jobs that were either created or retained or both by the project or activity
5. For any contracts equal to or greater than \$25,000, the following information must be included:
  6. The name of the entity receiving the contract
  7. The amount of the contract
  8. The transaction type
  9. The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number
  10. The Program source
  11. An award title descriptive of the purpose of each funding action
  12. The location of the entity receiving the contract
  13. The primary location of the contract, including the city, state, congressional district, and country
  14. The DUNS number, or name and zip code for the entity headquarters

A unique identifier of the entity receiving the contract and the parent entity of the Contractor, should the entity be owned by another

The names and total compensation of the five most highly compensated officers of the company if it received either of the following:

1. Eighty percent (80 %) or more of its annual gross revenues in Federal awards, or
2. Twenty-five million (\$25,000,000.00) or more in annual gross revenue from Federal awards

If the public does not have access to information about the compensation of senior executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 or Section 6104 of Internal Revenue Code of 1986. For any contracts of less than \$25,000 or to individuals, the information required above may be reported in the aggregate and requires the certification of an authorized officer of the Contractor that the information contained in the report is accurate.

**Any other information reasonably requested by the State or required by State or federal law or regulation.**

Standard data elements and federal instructions for use in complying with reporting requirements under Section 1512 of the ARRA, are pending review by the federal government,

and were published in the Federal Register on April 1, 2009 [74 FR 14824], and are to be provided online at [www.federalreporting.gov](http://www.federalreporting.gov). The additional requirements will be added to this contract(s).