



SAMPLE
Willis Evans
Watershed Habitat Improvement Grant Program
Disbursement Agreement

This grant disbursement agreement (“Agreement”) is made and entered into by and between the Marin Municipal Water District (“District”) and **xxxxxxxx** (“Grantee”).

For valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

Section 1. Recitals:

- A. The Board of Directors of the Marin Municipal Water District (“Board”) is committed to maintaining a thriving watershed on Mt. Tamalpais and other watersheds within the Marin Municipal Water District (MMWD) sphere of influence in Marin County; and
- B. The Board, on August 15, 2001, approved a grant program for the distribution of monies to selected grantees for the maintenance, restoration and improvement of the Mt. Tamalpais watershed and other watersheds within the MMWD sphere of influence in Marin County, including the drainage areas of Lagunitas Creek, Corte Madera Creek, Redwood Creek, Walker Creek and Arroyo Corte Madera Del Presidio; on August 17, 2005 authorized a third cycle of this program for fiscal years 2005/2006 through 2006/2007; and
- C. On **xxxxxxx**, 2006 the Board awarded the grants for this program; and
- D. Grantee was selected as one of the grant recipients. Grantee was selected for its **xxxxxxxxxxxxxxxxxxx** project.

Section 2. Grantee’s Obligations

Grantee shall provide all labor, materials, tools, permits and incidentals necessary to complete the **xxxxxxxx** (“Project”) in accordance with Exhibit A, which is attached hereto and incorporated herein as if fully set forth.

The parties agree that volunteer labor, as described in Labor Code 1720.4, may be used in implementing the Project. Grantee warrants that the individual(s) volunteering meet the definition of volunteer labor contained in Labor Code Section 1720.4 and that those volunteers are not and have not been (a) employed for compensation at any time in the construction, alteration, demolition, installation, repair or maintenance work on the Project and (b) employed by a contractor other than a corporation qualified under Section 501(c)(3) of the IRS Code as a tax-exempt organization, that is receiving payment to perform construction, alteration, demolition, installation , repair or maintenance work on the Project.

Section 3. Work Schedule

The Project shall be completed in accordance with the schedule attached hereto as Exhibit A and incorporated herein as if fully set forth.

Section 4. Contact Persons/Progress Reports

- A. The District's contact person for this project is Thomasin Curtis (415) 945-1542. Grantee's contact person for this project is **xxxxxxx**.
- B. The District's contact person may require the Grantee to submit progress reports and/or coordinate with District personnel as often as deemed necessary by the contact person.

Section 5. Permits/Environmental Compliance

Grantee shall comply with all applicable environmental laws and regulations (including the California Environmental Quality Act-CEQA) and employ best management practices in implementing the project. Grantee shall complete any required environmental review and obtain all required permits prior to implementing the project. Prior to grant disbursement, Grantee shall provide the District with all necessary information to insure compliance with CEQA. No District funds will be provided to Grantee to implement a project that requires environmental compliance, until the environmental compliance is completed.

Section 6. Payment

- A. Upon execution of this agreement, payment will be made directly to Grantee in the amount of 50% of project costs, as detailed in Exhibit A, "Products and Services to be financed by the District."
- B. Within 60 days of project completion, and not later than June 15, 2007, Grantee shall complete and submit the following to the District:
 - Notice of Project Completion
 - Summary Report of project activities
 - Financial Statement for products and services financed by the District
 - Invoice for balance of funds owed to grantee
- C. Once the District has determined that the project is complete, payment of the final 50% of project costs will be made by the District to Grantee.

Section 7. Insurance

A. Liability/Auto Insurance

Prior to the District funding the project, Grantee shall provide a certificate of insurance for liability and automobile insurance and Additional Insured Endorsement, naming Marin Municipal Water District as the additional insured in an amount acceptable to the District. Grantee's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

- B. Grantee shall provide the District with a certificate of worker's compensation insurance with statutory limits as required by the Labor Code of the State of California. That policy shall be endorsed with the following specific language:

This policy shall not be cancelled or materially changed without first giving thirty (30) days prior written notice to Marin Municipal Water District.

Section 8. Term of Agreement

This agreement shall remain effective until final payment by the District. The term of agreement can be extended only upon written notice to the Grantee by the District.

Section 9. Press Coverage

Whenever possible, Grantee shall acknowledge the District and the Willis Evans Watershed Habitat Improvement Grant Program for providing project funding in written articles and other press coverage pertaining to the Project. Grantee shall make an effort to inform the District of press opportunities associated with the Project ahead of time, so that a District representative may participate.

Section 10. Signage

Whenever possible, Grantee shall acknowledge the District and the Willis Evans Watershed Habitat Improvement Grant Program for providing project funding by posting sign(s) at project site.

Section 11. Termination

At any time and without cause, the District shall have the right, in its sole discretion, to terminate this Agreement by giving written notice to Grantee. In the event of such a termination, the District shall reimburse Grantee for authorized costs up to the termination date. In that event, the Grantee shall be entitled to receive payment for all materials received and services satisfactorily rendered, less any amount of material damages sustained by the District as a result of the failure to perform. In the event the District exercises its right to terminate this agreement pursuant to the terms herein, Grantee expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances or laws applicable to employees.

Section 12. Notice

All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail shall be addressed as follows:

District: Watershed Habitat Improvement Grant Program
Attention: Thomasin Curtis
Marin Municipal Water District
220 Nellen Avenue
Corte Madera, CA. 94925-1169

Grantee: Attention: xxxxx
xxx
xxxxxxxxxxx
xxxxxxx

and when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, bill and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving notice pursuant to this paragraph.

Section 13. Merger

This writing is intended both as the final expression of the agreement between the parties hereto with respect to the included terms of the agreement, pursuant to California Code of Civil Procedure Section 1856, and as a complete and exclusive statement of the terms of the agreement.

Section 14. Indemnification

The District is relying on the ability, knowledge and experience of the Grantee as a material inducement to enter into the Agreement. The Grantee warrants that all its work will be performed in accordance with generally accepted practices and standards within its particular supply industry, as well as the requirements of applicable federal, state and local laws. The parties agree that the acceptance of the Grantee's products shall not operate as a waiver or release.

The Grantee shall indemnify, hold harmless, release and defend the District, its officers, agents, directors, volunteers and employees from and against any and all actions, claims, damages including, but not limited to, pollution, contamination and explosion damages, disabilities, expenses, and liabilities of any kind, including attorney's and expert witness fees and witness and litigation costs that may be asserted by any person or entity, including the Grantee, its officers, agents, employees and/or subcontractors, arising out of the Grantee's its officer's, agent's and employee's negligent or intentional acts, errors or omissions in connection with this Agreement, the materials provided and all of the activities necessary to perform the services and complete the tasks provided for in the Agreement, but excluding liabilities due to the negligence or willful misconduct of the District.

This indemnification is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for the District or its agents under worker's compensation acts, disability benefits acts or other employee benefits acts.

Section 15. Amendments to the Agreement

Any amendment to this Agreement is valid only if in writing and signed by the District's General Manager. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

Section 16. Independent Contractor

The parties intend that Grantee shall act as an independent contractor and shall control the work and the manner in which it is performed. Grantee is not to be considered an agent or employee of the District.

Section 17. Dispute Resolution

A. Mediation

Any dispute or claim in law or equity between the District and Grantee arising out of this agreement, if not resolved by informal negotiation between the parties, shall be mediated by referring it to the nearest office of Judicial Arbitration and Mediation Services, Inc. (JAMS) for mediation. Mediation shall consist of an informal, non-binding conference or conferences between the parties and the judge-mediator jointly, then in separate caucuses wherein the judge will seek to guide the parties to a resolution of the case. If the parties cannot agree to a mutually acceptable member from the JAMS panel of retired judges, a list

and resumes of available mediators numbering one more than there are parties will be sent to the parties, each of whom will strike one name leaving the remaining name as the mediator. If more than one name remains, JAMS arbitrations administrator will choose a mediator from the remaining names. The mediation process shall continue until the case is resolved or until such time as the mediator makes a finding that there is no possibility of resolution.

B. Arbitration

At the sole election of the District, any dispute or claim in law or equity between District and Grantee arising out of this agreement which is not settled through mediation shall be decided by neutral binding arbitration and not by court action, except as provided by California law for judicial review of arbitration proceedings. The arbitration shall be conducted in accordance with the rules of Judicial Arbitration Mediation Services, Inc. (JAMS). The parties to an arbitration may agree in writing to use different rules and/or arbitrators.

Section 18. Records Maintenance

Grantee shall maintain at all times full and complete documentation and accounting records concerning all products and services that are compensable under this agreement and shall make such documents, records and facilities available to the District for inspection at any reasonable time. Grantee shall maintain such records for a period of four (4) years following completion of work hereunder.

Section 19. Assignment and Delegation

This Agreement shall not be assigned without the written approval of the District's General Manager.

Section 20. No Third Party Beneficiaries

Nothing contained in this agreement shall be construed to create and the parties do not intend to create any rights in third parties.

Section 21. Taxes

If required by law, Grantee agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Grantee agrees to indemnify and hold the District, its officers, directors, agents and employees harmless from any liability which it may incur to the United States or to the State of California as a consequence of Grantee's failure to pay, when due, all such taxes and obligations. In case the District is audited for compliance regarding any withholding or other applicable taxes, Grantee agrees to furnish the District with proof of payment of taxes on these earnings.

Section 22. Representation

This Agreement is executed voluntarily by each of the parties hereto, all of whom have had the opportunity to obtain legal advice by independent counsel of their choice as to the content and effect of this Agreement.

Section 23. Authorization

Each signatory to this Agreement warrants that he or she has full authority to execute this Agreement on behalf of and thus bind the individual or entity represented.

Section 24. Entire Agreement

This Agreement contains the entire agreement and understanding between the parties hereto with respect to the grant disbursement, the Project and the matters referred to herein.

Section 25. Binding on Successors

This Agreement shall bind and inure to the benefit of the respective successors, assigns, legatees, heirs, executors, administrators and estates of each of the parties.

Section 26. Paragraph Headings

Paragraph headings are used for reference purposes only and are not intended to describe, interpret, define or limit the scope or extent of this Agreement or any of its provisions.

Section 27. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the state of California.

Section 28. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which taken together, shall constitute one instrument.

Section 29. Facsimile Signatures

The parties agree that this Agreement, documents ancillary to this Agreement and related documents to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by facsimile transmission. Such facsimile signature shall be treated in all respects as having the same effect as an original signature.

Section 30. No Presumption Regarding Drafter

The Parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the Parties and their attorneys, and this Agreement reflects their mutual agreement regarding the same. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any party to be the drafter of this Agreement, and therefore no presumption for or against validity or as to any interpretation hereto, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.

Section 31. Effective Date

This effective date of this Agreement shall be the later to occur of:

- (a) The execution of this Agreement by Grantee; or
- (b) The execution of this Agreement by the District.

GRANTEE: xxxxxxxxxxxxxxxxxxxx

By: _____

Date

DISTRICT: MARIN MUNICIPAL WATER DISTRICT

By: _____
Paul E. Helliker, General Manager

Date

1. GRANTEE INFORMATION

Grantee Name _____ XXXX
Social Security/Bus. I.D. No. _____ XXXXX
Address _____ XXXXX
_____ XXXXXXXXXXXXXXXXXXXX
_____ XXXXXXXXXXXXXXXXXXXX
Contact Person: _____ XXXXXXXXXXXXXXXXXXXX Phone Number _____ (XXXXXXXXXXXXXXXXXXXX)
Fax Number _____ (XXXXXXXXXXXXXXXXXXXX) Email _____ XXXXXXXXXXXXXXXXXXXX

2. DISTRICT INFORMATION

Project _____ Willis Evans Watershed Habitat Improvement Program
Agreement No. _____ XXXXXX
Contact person: _____ Thomasin Curtis Phone Number: _____ (415) 945-1542
Fax Number: _____ (415) 924-2630 Email: _____ tcurtis@marinwater.org

Attachments: Exhibit A – Scope of Work and Schedule of Work
Exhibit B – Additional Insured Endorsement