

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 13.2
(ID # 12023)

MEETING DATE:
Tuesday, March 10, 2020

FROM : Regional Parks and Open Space District:

SUBJECT: REGIONAL PARK & OPEN-SPACE DISTRICT: Adopt Resolution No. 2020-01 Authorizing the Application for and Acceptance of Off-Highway Motor Vehicle Recreation Division Grants and Cooperative Agreements Program; District – ALL; [\$563,416] [33110 Park Acquisition & Development-Grants, 70%, 25400 District Operating Fund 30%]; 4/5 vote

RECOMMENDED MOTION: That the Board of Directors:

1. Adopt Resolution No. 2020-01 Authorizing the Park District to submit an application to State of California, Department of Parks and Recreation for Off-Highway Motor Vehicle Recreation Division Grants and Cooperative Agreements Program;
2. Authorize the General Manager, or designee, to execute Grant Agreement G18-03-60-R01 and to take all actions necessary to administer said agreement;
3. Instruct the Clerk of the Board to return one copy of the resolution to the Park District; and
4. Direct the Auditor-Controller to make the budget adjustment shown on Schedule A.

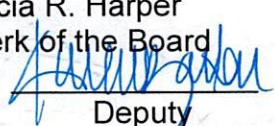
ACTION: 4/5 Vote Required, Consent


Kyla R. Brown, General Manager 2/25/2020

MINUTES OF THE BOARD OF DIRECTORS

On motion of Supervisor Perez, seconded by Supervisor Hewitt and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: March 10, 2020
xc: Parks, Auditor

Kecia R. Harper
Clerk of the Board
By: 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 563,416	\$ 0	\$ 563,416	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: 33110 Park Acquisition & Development-Grants, 70%, 25400 District Operating Fund 30%			Budget Adjustment: Yes	
			For Fiscal Year: 19/20-22/23	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The California Department of Parks and Recreation Off-Highway Vehicle Motor Vehicle Recreation Division is currently accepting applications for funding under their Grants and Cooperative Agreements Program. These funds are available to eligible applicants for the purposes of planning, acquisition, development, maintenance, administration, operation, enforcement, restoration, and conservation of trails, trail heads, and associated facilities. Riverside County Regional Park and Open-Space District has submitted an application for a portion of these funds, and now wishes to accept the grant award.

The District will utilize the grant funding to conduct restoration work on habitat degraded by unauthorized off-highway vehicle (OHV) use at Roy W. Kabian Memorial Park (Kabian Park). The Park is located in Quail Valley immediately west of Goetz Road and has been utilized by enthusiasts for unauthorized OHV recreation. As a result of this unauthorized use, the site contains a spider-web of trails scarring its rounded hillsides. The proposed project will fund a multi-year undertaking that will include several components aimed to restore native habitat within Kabian Park. The main objective is to remove unauthorized OHV trails and improve the habitat by conducting active restoration. Target species for habitat restoration will include Quino Checkerspotted butterfly, Threadleaf brodiaea, Stephen's Kangaroo Rat, and California Gnatcatcher. All are listed as endangered/threatened by United States Fish and Wildlife Service and the California Department of Fish and Wildlife. Additional patrols of the area will be conducted to ensure that restoration work is not disturbed by unauthorized OHV users. Grant funding will also be utilized to construct approximately 20,000 linear feet of t-post fencing, cutting off key access points unauthorized OHV users have historically used to enter the park.

The proposed resolution is a requirement of the grant application process and authorizes the District's application for funds, as well as acceptance of grant funding. Grant Agreement G18-03-60-R01 is attached. A copy of the signed agreement will be provided to the Executive Office upon execution.

Impact on Citizens and Businesses

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

The proposed project will restore dwindling native habitat for several endangered and threatened species, helping to preserve their populations for future generations. It will also improve safety for users utilizing the reserve for authorized activities, such as hiking, by further limiting and discouraging illegal off-highway motorized vehicle use.

Supplemental Fiscal Information

The total anticipated cost for this project is \$563,416. There is a minimum match requirement of 26% of the total project cost for this grant. The District was been awarded \$395,000 in grant funds. The remaining balance of \$168,416 will be provided by the District as match in the form of staff labor. This expense will be funded by District Operating Fund 25400.

Attachments:

Resolution No 2020-01
OHV Grants Agreement G18-03-60-R01
Schedule A Budget Adjustment


Misley Wang, Supervising Accountant 2/26/2020


Douglas Ordóñez Jr. 3/4/2020


Gregory F. Priamos, Director County Counsel 2/27/2020

SCHEDULE A

REGIONAL PARK AND OPEN-SPACE DISTRICT: Adopt Resolution No. 2020-01 Authorizing the Application for and Acceptance of Off-Highway Motor Vehicle Recreation Division Grants and Cooperative Agreements Program; District - ALL; [\$563,416] [\$395,000 OHV Grant funds, \$168,416 in-kind District Labor]

FY19-20

Increase Appropriations:

25430	931170	522320	Maint-Grounds	\$	395,000
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Increase Estimated Revenue:

25430	931170	751680	CA-Grant Revenue	\$	395,000
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4 **RESOLUTION NO. 2020-01**

5 **RESOLUTION OF THE BOARD OF DIRECTORS OF THE RIVERSIDE**
6 **COUNTY REGIONAL PARK AND OPEN-SPACE DISTRICT APPROVING THE**
7 **APPLICATION FOR THE STATE OF CALIFORNIA, DEPARTMENT OF**
8 **OFF-HIGHWAY VEHICLE GRANT FUNDS**

9 **WHEREAS**, The people of the State of California have enacted the Off-Highway Motor
10 Vehicle Recreation Act of 2003, which provides funds to the State of California and its political
11 subdivisions for Operation and Maintenance, Restoration, Law Enforcement, and Education and
12 Safety for off-highway vehicle recreation; and

13
14 **WHEREAS**, the Off-Highway Motor Vehicle Recreation Division with the California
15 Department of Parks and Recreation has been delegated the responsibility to administer the
16 program; and

17
18 **WHEREAS**, procedures established by the California Department of Parks and
19 Recreation require the Applicant's Governing Body to certify by resolution the approval to
20 receive grant funding from the Off-Highway Motor Vehicle Grant funds; and

21
22 **WHEREAS**, this Project appears on, or is in conformance with this jurisdiction's adopted
23 general or master plan and is compatible with the land use plans of those jurisdictions
24 immediately surrounding the Project;

25 **NOW, THEREFORE, BE IT RESOLVED** that the **BOARD OF DIRECTORS** hereby:

- 26
27 1. Approves the receiving of grant funding from the Off-Highway Vehicle Grant or
28 Cooperative Agreement Program; and

FORM APPROVED COUNTY COUNSEL
BY KRISTINE BELL VALDEZ 2/26/2020
DATE

- 1 2. Certifies that this agency understands its legal obligations to the State upon approval
- 2 of the Grant; and
- 3 3. Certifies that this agency understands the California Public Resources Code
- 4 requirement that Acquisition and Development Projects be maintained to specific
- 5 conservation standards; and
- 6 4. Certifies that the Project will be well-maintained during its useful life; and
- 7 5. Certifies that this agency will implement the Project with diligence once funds are
- 8 available and the Applicant has reviewed, understands, and agrees with the Project
- 9 Agreement; and
- 10 6. Certifies that this agency will provide the required matching funds; and
- 11 7. Certifies that the public and adjacent property owners have been notified of this
- 12 Project (as applicable); and
- 13 8. Delegates the authority to Parks Director to conduct all negotiations, sign and submit
- 14 all documents, including, but not limited to applications, agreements, amendments,
- 15 and payment requests, which may be necessary for the completion of the project.

17 ROLL CALL:

18 Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
19 Nays: None
20 Absent: None

21 The foregoing is certified to be a true copy of a resolution duly
22 adopted by said Board of Supervisors on the date therein set forth.

23 Kecia R. Harper, Clerk of said Board

24 By 
25 Deputy

PROJECT AGREEMENT

PROJECT AGREEMENT NUMBER: G18-03-60-R01 PROJECT TYPE: Restoration

GRANTEE: Riverside County Regional Park and Open-Space District

PROJECT TITLE: Kabian Park Restoration

PROJECT PERFORMANCE PERIOD: FROM 11/01/2019 THROUGH 10/31/2022

MAXIMUM AMOUNT PAYABLE SHALL NOT EXCEED **\$395,000.00** (Three Hundred Ninety Five Thousand and 00/100)

THIS PROJECT AGREEMENT is made and entered into, by and between the State of California, acting by and through the Department of Parks and Recreation, Off-Highway Motor Vehicle Recreation Division and Grantee.

The Grantee agrees to complete the project as described in the Project Description. The Grantee's Application, the Off-Highway Motor Vehicle Act of 2003 and the California Code of Regulations, Division 3, Chapter 15, Sections 4970-4970.26 are hereby incorporated into this agreement by reference.

The parties hereto agree to comply with the terms and conditions of the following attachments which by reference are made a part of the Project Agreement.

ATTACHMENT 1 - PROJECT COST ESTIMATE

ATTACHMENT 2 - GENERAL PROVISIONS

GRANTEE	STATE OF CALIFORNIA
AUTHORIZED SIGNATURE:	AUTHORIZED SIGNATURE:
AUTHORIZED NAME:	AUTHORIZED NAME: Sixto J. Fernandez
TITLE:	TITLE: Grants Manager
DATE:	DATE:

CERTIFICATION OF FUNDING (FOR STATE USE ONLY)					
CONTRACT NUMBER: C32-31-056		SUPPLIER ID NUMBER: 0000059153		FUND DESCRIPTION: Off-Highway Vehicle Trust Fund	
REPORTING STRUCTURE: 37900550	ACCOUNT: 5432000	PCA: 62675	CONTRACT AMOUNT: 395,000.00	PROGRAM: 2855	
BU: 3790	REF: 101	FUND: 0263	CHAPTER: 23/19	ENY/STATUTE 2019	FISCAL YEAR: 2019/2020

I hereby certify upon my own personal knowledge that budgeted funds are available for this encumbrance.

SIGNATURE OF DPR ACCOUNTING OFFICER:

DATE:

ATTACHMENT 1

**Project Cost Estimate for Grants and Cooperative Agreements Program - 2018/2019
Agency: Riverside County Regional Park and Open-Space District
Application: Kabian Park Restoration**

APPLICANT NAME :	Riverside County Regional Park and Open-Space District		
PROJECT TITLE :	Kabian Park Restoration	PROJECT NUMBER (Division use only) :	G18-03-60-R01
PROJECT TYPE :	<input type="checkbox"/> Law Enforcement <input checked="" type="checkbox"/> Restoration <input type="checkbox"/> Education & Safety <input type="checkbox"/> Acquisition <input type="checkbox"/> Development <input type="checkbox"/> Ground Operations <input type="checkbox"/> Planning		
PROJECT DESCRIPTION :	<p>The project is to provide Off-Highway Vehicle (OHV) related Restoration activities as stated in the Project Deliverables below. The activities will occur within the jurisdiction of the Riverside County Regional Park and Open Space District.</p> <p>The Project may also provide for the purchase of Equipment, Heavy Equipment, materials and supplies as outlined in the Project Cost Estimate. Grantee agrees that all Equipment and Heavy Equipment will be kept as part of their equipment inventory for the duration of the equipment's useful life and may only be used on activities that are applicable to the Restoration category per Section 4970.11 of the Grants and Cooperative Agreements Program Regulations. Grantee must obtain written OHMVR Division approval prior to disposition of all grant related equipment.</p> <p>Grantee is required to provide a minimum of 26 percent of the total project cost in matching.</p> <p>Project Deliverables:</p> <p>This is a two-phased restoration project to restore lands damaged by OHV illegal riding that has caused significant natural resource damage to Riverside County Regional Park and Open Space District's Kabian Park and Reserve.</p> <p>Phase 2 may not begin until results from CEQA is submitted to the OHMVR Division in the form of a Decision Memo. Grantee may only proceed with Phase 2 upon the written approval from the OHMVR Division.</p> <p>Phase 1</p> <p>CEQA</p> <p>Completion of the CEQA process, with submission of completed documents. Activities include appropriate public contact/meetings, maps, surveys, Notice of Determination (NOD).</p> <p>Phase 2</p> <p>Fencing</p> <ul style="list-style-type: none"> • Install approximately 20,000 feet of fencing along the perimeter of the property. Material will consist of galvanized round posts, T-posts, smooth barb-less wire, and 3/8 in. cable. Standard 3 strain wire/cable with 10 feet spacing between posts will apply. • 4 gates will be manufactured and installed by District staff. 		

ATTACHMENT 1

**Project Cost Estimate for Grants and Cooperative Agreements Program - 2018/2019
Agency: Riverside County Regional Park and Open-Space District
Application: Kabian Park Restoration**

	<p>Signage</p> <ul style="list-style-type: none"> Install signage at Kabian Park and access points to the Reserve. Signage will include information about responsible riding and provide users with a map to nearby legal riding opportunities in Riverside County, such as Wildomar OHV Park or Cahuilla Creek Motorcross Park. <p>Unauthorized Use Restoration Work</p> <ul style="list-style-type: none"> Trail removal of 3 miles of unauthorized OHV trails. These trails will be disked repeatedly in order to loosen compacted soil. Once complete, the areas will be replanted with native plants. <p>Restoration</p> <ul style="list-style-type: none"> Activities include restoring 35 acres of native habitat degraded by habitual unauthorized OHV use. <p>Monitoring</p> <ul style="list-style-type: none"> Developed by the Park District's Natural Resources Manager, this report will be issued on an annual basis and will include observations and lessons learned throughout the restoration project. The intent is to utilize the report to facilitate more informed planning on future restoration projects District-wide. Special Status Species Study - Environmental Services Contractor will develop a report focusing on the impact OHV use and subsequent restoration has had on targeted species (California Gnat-Catcher, Quino Checkerspot Butterfly, and Stephens Kangaroo Rat).
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	Line Item	Qty	Rate	UOM	Total	Grant Req.	Match
DIRECT EXPENSES							
Program Expenses							
1	Staff						
	1. Staff-Park Planner Notes : Park Planner will oversee compliance with CEQA, develop all RFPs for contractor services and manage contracts develop plant palette for plantings, etc.	400.000 0	52.450	HRS	20,980.00	0.00	20,980.00
	2. Staff-Natural Resources Manager Notes : Natural Resources Manager will conduct site	500.000 0	53.140	HRS	26,570.00	0.00	26,570.00

ATTACHMENT 1

**Project Cost Estimate for Grants and Cooperative Agreements Program - 2018/2019
Agency: Riverside County Regional Park and Open-Space District
Application: Kabian Park Restoration**

Line Item	Qty	Rate	UOM	Total	Grant Req.	Match
assessments and create monitoring reports prior, during, and after the completion of the restoration phase of the project.						
3. Staff-Park Ranger Notes : District Park Ranger are peace officers and will conduct regular patrols of the site throughout the project performance period, to deter unauthorized OHV use.	1400.00 00	36.890	HRS	51,646.00	0.00	51,646.00
4. Staff-Park Maintenance Worker Notes : Park Maintenance Worker will conduct active recreation by planting native shrubs, installing irrigation systems, maintaining fencing throughout the project performance period, and completing any repairs as needed.	2000.00 00	34.610	HRS	69,220.00	0.00	69,220.00
Total for Staff				168,416.00	0.00	168,416.00
2 Contracts						
1. Contracts-Fencing Contractor	1.0000	130000.000	EA	130,000.00	130,000.00	0.00
2. Contracts-Landscape Restoration Contractor Notes : Remove 3.0 miles of illegal roads and trails. The trails will be disked repeatedly in order to loosen the compacted soil. Regrade areas to receive native plantings	1.0000	25000.000	EA	25,000.00	25,000.00	0.00

ATTACHMENT 1

**Project Cost Estimate for Grants and Cooperative Agreements Program - 2018/2019
Agency: Riverside County Regional Park and Open-Space District
Application: Kabian Park Restoration**

Line Item	Qty	Rate	UOM	Total	Grant Req.	Match
(installed by California Conservation Corps)						
3. Contracts-California Conservation Corps Notes : Install plants, conduct weed abatement, and perform other activities related to the active restoration component of the project.	20.0000	3000.000	DAY	60,000.00	60,000.00	0.00
4. Contracts-Environmental Services Firm Notes : Complete CEQA. Conduct pre/post surveys for each target species, conduct surveys of endangered species that require a Federal 10(a)(1)(A) permit. Develop Special Species Status Report.	1.0000	110000.000	EA	110,000.00	110,000.00	0.00
Total for Contracts				325,000.00	325,000.00	0.00
3 Materials / Supplies						
1. Materials / Supplies-Gate materials Notes : Materials necessary for the manufacture of 4 access gates. Gates will be manufactured and installed by Park District staff to reduce cost. Once installed, gates will provide keyed access for rangers conducting patrols while eliminating access points for unauthorized OHV use.	4.0000	5000.000	EA	20,000.00	20,000.00	0.00

ATTACHMENT 1

**Project Cost Estimate for Grants and Cooperative Agreements Program - 2018/2019
Agency: Riverside County Regional Park and Open-Space District
Application: Kabian Park Restoration**

	Line Item	Qty	Rate	UOM	Total	Grant Req.	Match
	2. Materials / Supplies- Native Plants Notes : Native plants to be installed by California Conservation Corps.	1.0000	50000.000	EA	50,000.00	50,000.00	0.00
Total for Materials / Supplies					70,000.00	70,000.00	0.00
4	Equipment Use Expenses						
5	Equipment Purchases						
6	Others						
Total Program Expenses					563,416.00	395,000.00	168,416.00
TOTAL DIRECT EXPENSES					563,416.00	395,000.00	168,416.00
INDIRECT EXPENSES							
Indirect Costs							
1	Indirect Costs						
Total Indirect Costs					0.00	0.00	0.00
TOTAL INDIRECT EXPENSES					0.00	0.00	0.00
TOTAL EXPENDITURES					563,416.00	395,000.00	168,416.00
TOTAL PROJECT AWARD					395,000.00		

Project Agreement General Provisions (Nonfederal Applicants Only)

A. Definitions

1. The term "State" as used herein means the State of California, Department of Parks and Recreation.
2. The term "Act" as used herein means the Off-Highway Motor Vehicle Recreation Act of 2003 as amended.
3. The term "Project" as used herein means the Project described in Attachment 1 of this Agreement and in the Application.
4. The term "Application" as used herein means the individual Project Application and attachments required pursuant to the enabling legislation, regulations, and/or Grant program, which is incorporated into this Agreement by reference.
5. The term "Project Agreement" as used herein means the Application and the Project Agreement and its General Provisions.
6. The term "Grantee" as used herein means the party described as the Grantee on page 1 of the Project Agreement.

B. Project Execution

1. Subject to the appropriation and availability of Grant funds in the state budget, the State hereby awards to the Grantee the sum of money (Grant money) stated on page 1 of the Project Agreement in consideration of and on condition that the sum be expended in carrying out the purposes as set forth in the Project Description on Attachment 1 of the Project Agreement and the terms and conditions set forth in this Agreement.

The Grantee assumes the obligation to furnish any additional funds that may be necessary to complete or carry out the Project as described. Any modification or alteration in the Project as set forth in the Application on file with the State must be submitted to the State for approval. The State's obligation to make Grant payments is limited to the Project as provided for herein, or as modified with the approval of the State.

2. The Grantee agrees to complete the Project in accordance with the Project performance period set forth on page 1 of the Project Agreement, and under the terms and conditions of this agreement.
3. If the Project includes development, the development plans, specifications and estimates or Force Account Schedule shall be reviewed and approved by the State prior to the Grantee proceeding with the Project. Unless the development plans, specifications and estimates are approved by the State, the State shall have no obligation to make Grant payments for the work.

The Grantee shall comply with all applicable current laws and regulations affecting Development Projects, including, but not limited to, legal requirements for construction contracts, building codes, health and safety codes, and laws and codes pertaining to individuals with disabilities. In addition, the Grantee shall complete the development work in accordance with the State-approved development plans, specifications, and estimates or Force Account Schedule.

4. The Grantee shall make property or facilities acquired and/or developed pursuant to this Agreement available for inspection upon request by the State to determine if development work is in accordance with the approved plans, specifications and estimates or Force Account Schedule, including a final inspection upon Project completion.
5. If the Project includes acquisition of real property, the cost of which is to be reimbursed with Grant moneys under this Agreement, the acquisition shall comply with Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code and any

other applicable federal, state, or local laws or ordinances. Documentation of such compliance will be made available for review by the State upon request. Eminent domain may not be used to acquire property using the Grant funds provided by this Agreement.

6. If the Project includes acquisition of real property, the purchase price shall be the fair market value of such property as established by an appraisal completed according to established current appraisal practices and methods as approved by both the Grantee and the State. The Grantee agrees to furnish the State with additional supportive appraisal material or justification as may be requested by the State to complete its review and approval of the fair market value.

The Grantee agrees to furnish the State with preliminary title reports respecting such real property or such other evidence of title which is determined to be sufficient by the State. The Grantee agrees to correct prior to or at the close of escrow any defects of title which in the opinion of the State might interfere with the operation of the Project.

C. Project Costs

1. The Grant moneys to be provided to the Grantee under this Agreement shall be disbursed as follows, but not to exceed in any event one-hundred (100) percent of the allowable Project costs or the State Grant amount as set forth on page 1 of this Agreement, whichever is less:
2. If the Project includes acquisition of real property, the State shall disburse to the Grantee the Grant moneys as follows, but not to exceed in any event the State Grant amount set forth on page 1 of this Agreement.

The State will disburse the amount of the State-approved purchase price together with State-approved costs of acquisition. Funds for acquisition shall only be released into an escrow account established for the acquisition.

D. Project Administration

1. The Grantee shall promptly submit such progress, performance or other reports concerning the status of work performed on the Project as the State may request. In any event, the Grantee shall provide the State a report showing total final Project expenditures including State and all other moneys expended within one hundred-twenty (120) days after completion of the Project.
2. The Grantee shall make property and facilities maintained, operated, acquired or developed pursuant to this Agreement available for inspection by the State upon request.
3. The Grantee may be provided advanced payments for Grants. The Grantee shall place such moneys in a separate interest-bearing account, if legally able to do so, setting up and identifying such account prior to the advance. Interest earned on Grant moneys shall be used on the Project or paid to the State. If Grant moneys are advanced and not expended, the unused portion of the Grant (plus interest) shall be returned to the State within one hundred-twenty (120) days of completion of the Project or end of the Project performance period, whichever is earlier.

Income, after deduction for reasonable expenses associated with that income, that is earned by the Grantee from a State-approved non-recreational use on an acquisition Project, subsequent to taking title by the Grantee, but before use for OHV Recreation, must be used by the Grantee for recreational purposes at the Project.

4. The Grantee shall use any moneys advanced by the State under the terms of this agreement solely for the Project herein described.
5. The Grantee will provide and maintain a sign on the Project site that identifies the funding source (Off-Highway Vehicle Fund) and the administering agency (California State Department of Parks and Recreation).

6. Equipment must be used solely for OHV-related purposes unless the Applicant is funding the portion of the purchase price not dedicated to OHV purposes, and that portion is not part of the total project cost.

E. Project Termination

1. The Grantee may unilaterally rescind this Agreement at any time prior to the commencement of the Project. After Project commencement this Agreement may be rescinded, modified or amended by mutual agreement in writing.
2. Failure by the Grantee to comply with the terms of this Agreement or any other agreement under the Act may be cause for suspension of all obligations of the State hereunder and reimbursement to the State of any Grant moneys already provided to the Grantee. However, such failure shall not be cause for the suspension of all obligations of the State hereunder if, in the judgment of the State, such failure was due to no fault and beyond the control of the Grantee to prevent, mitigate or remedy.
3. Because the benefit to be derived by the State from the full compliance by the Grantee with the terms of this Agreement is the operation, development, preservation, protection and net increase in the quantity and quality of public outdoor recreation facilities available to the people of the State of California, and because such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the State by way of Grant moneys under the terms of this Agreement, the Grantee agrees that payment by the Grantee to the State of an amount equal to the amount of the Grant moneys disbursed under this Agreement by the State would be inadequate compensation to the State for any breach by the Grantee of this Agreement.
4. The Grantee further agrees, therefore, that the appropriate remedy in the event of a breach by the Grantee of this Agreement shall be the specific performance of this Agreement, unless otherwise agreed to by the State. Notwithstanding the foregoing, in the event of a breach of this Agreement, or any portion thereof, which is due to no fault and beyond the control of the Grantee to prevent, mitigate, or remedy, the State's sole remedy shall be the reimbursement of any funds advanced or paid that pertain to the breached term or terms of this Agreement.

F. Hold Harmless

1. The Grantee hereby waives all claims and recourse against the State including the right to contribution or loss of damage to persons or property arising from, growing out of or in any way connected with or incident to this Agreement except claims arising from the concurrent or sole negligence of the State, its officers, agents and employees.
2. The Grantee shall protect, indemnify, hold harmless and defend the State, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of the acquisition, development, construction, operation or maintenance of the property described as the Project which claims, demands or causes of action arise under Government Code Section 895.2 or otherwise except for liability arising out of, and attributable to, the concurrent or sole negligence of the State, its officers, or employees.
3. In the event the State is named as codefendant under the provisions of Government Code Section 895 et seq., the Grantee shall notify the State of such fact and shall represent the State in the legal action unless the State undertakes to represent itself as codefendant in such legal action in which event the State shall bear its own litigation costs, expenses, and attorney's fees.
4. In the event of judgment against the State and the Grantee because of the concurrent negligence of the State and the Grantee, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request, and each party hereby waives its right to, a jury apportionment.

G. Financial Records

1. The Grantee shall retain for inspection all financial accounts, documents, and records for three (3) years from the expiration date of the Project Agreement, or three (3) years from the start of an audit engagement, whichever comes first, and until an audit started during the three (3) years is completed, a report published and any Audit findings are resolved and/or payment or other correction made with regard to any Audit findings contained in the final Audit report.
2. During regular office hours each party hereto and their duly authorized representatives shall have the right to inspect and make copies of any books, records or reports of the other party pertaining to this Agreement or matters related thereto.

H. Use of Facilities

1. The Grantee shall, without cost to the State, except as may be otherwise provided in this Agreement or any other Grant agreement, operate and maintain the property acquired or developed pursuant to this Agreement in the manner of and according to the Off-Highway Motor Vehicle Recreation Act and any related regulations, or any other applicable provisions of law.
2. Use of the facilities shall comply with all applicable laws, including, but not limited to, the requirements for registration of all day use-vehicles with the Department of Motor Vehicles or identified under the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1993.

I. Nondiscrimination

1. The Grantee shall not discriminate against any person on the basis of sex, race, color, national origin, religion, ancestry, or physical handicap in the use of any property or facility acquired or developed pursuant to this Agreement.
2. The Grantee shall not discriminate against any person on the basis of residence except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence and pursuant to law.

J. Application Incorporation

1. The Application and any subsequent change or addition approved by the State is hereby incorporated in this Agreement as though set forth in full in this Agreement.

K. Severability

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

L. Governing Law

1. This Agreement shall be construed in accordance with and be governed by the laws of the State of California. Any legal action arising out of the terms of this Agreement shall take place in the county wherein the Project funded by this Agreement is located. If the Project is located in or among two or more counties, any legal action shall be taken in the county wherein the largest land area of the Project is located.
2. The Grantee shall comply with all Federal, State, and/or Local laws, regulations, ordinances and executive orders that are applicable during the performance period.