Agenda Item A.1
CONSENT CALENDAR
Meeting Date: January 12, 2026

TO: Mayor and Councilmembers

SUBMITTED BY: Luz "Nina" Buelna, Public Works Director
Luke Rioux, Finance Director

PREPARED BY: Sarah Fox, Public Works Business & Administration Manager

SUBJECT: Letter of Credit for San Jose Creek Multipurpose Path Project

RECOMMENDATION:

A. Authorize the City Manager to execute an Irrevocable Standby Letter of Credit, Reimbursement Agreement, Pledge Agreement, and related documents, with approval as to form by the City Attorney, in an amount not to exceed $1,000,000 to act as security for the City's mitigation required by the California Department of Fish and Wildlife permit for the San Jose Creek Multipurpose Path Project,

B. Authorize the City Manager to make any mitigation fee payment conditioned by the California Department of Fish and Wildlife permit so long as the amount of the payment can be absorbed by the project budget and execute all documents necessary to effectuate payment with approval as to form by the City Attorney, and

C. Authorize the City Manager to execute a substitute form of security for the Letter of Credit as approved to form by the City Attorney.

BACKGROUND:

The San Jose Creek Multipurpose Path Project (CIP No. 9006) is an Active Transportation Program-funded project that will construct a Class I multipurpose path adjacent to San Jose Creek, connecting areas north of U.S. Route 101 with the Class I Atascadero Creek Bikeway (Obern Trail) east of State Route 217.

The project requires multiple regulatory permits prior to construction, including a Lake and Streambed Alteration Agreement (LSAA) issued by the California Department of Fish and Wildlife (CDFW). The LSAA includes conditions requiring financial security to ensure completion of mitigation, monitoring, and long-term management obligations prior to the start of construction.

DISCUSSION:

The City entered into a LSAA with CDFW for the San Jose Creek Multipurpose Path Project (Attachment 1). As part of that permit, CDFW requires financial security in the form of an Irrevocable Standby Letter of Credit (Letter of Credit) to ensure completion of required mitigation measures.

While this condition is included in the permit, execution of the Letter of Credit requires coordination with financial institutions and may take several weeks to complete. Due to the project's current construction schedule and biological timing constraints, particularly the upcoming nesting bird season, finalizing the Letter of Credit may result in construction delays and increased project costs. A draft template of the Letter of Credit and estimated cost analysis for the mitigation amount are provided in Attachments 2 and 3, respectively.

In light of potential delay, CDFW has provided the City with an option to proceed with construction as the parties work to execute the Letter of Credit. The City would make a one-time mitigation fee payment of $44,900 to CDFW. This payment is non-refundable, does not replace or reduce the requirement to execute the Letter of Credit, and is intended solely to allow limited, permit-authorized work to proceed while the City completes execution of the required Letter of Credit.

Staff recommends that Council authorize the City Manager to continue working with CDFW to effectuate the Letter of Credit and make the mitigation payment as presented by CDFW. Both routes will allow the City to proceed with construction of the project as soon as possible and minimize delay. In the future, the City may be able to substitute the Letter of Credit for a guaranteed letter of payment, which would not involve any costs on the part of the City. However, whether CDFW will allow for this substitute will be worked out in the future. The recommendation reflects staff's request for Council's authorization to allow the City Manager to execute any substitute security instruments for the Letter of Credit.

FISCAL IMPACTS:

Table 1 below reflects the current project cost estimates and funding.

Table 1 – San Jose Creek Multipurpose Path Project Cost Estimates

Project Components	Estimated Costs
Conceptual Design	$1,837,267*
Environmental	$978,007*
Final Design	$4,511,983
Land Acquisition	$1,119,000
Construction	$40,860,741

Funding Source	Funding Amounts
TDA (202)	$262,062
Measure A (205)	$4,007,157
Measure A (206)	$1,038,378
DIF (Transportation 220)	$4,801,571
DIF (Bicycle and Pedestrian 235)	$272,204
RSTP grant (305)	$30,689

		ATP Grant - State (318)	$2,669,000
		Housing and Community Development (HCD) (319)	$729,866
		TCSP – Federal (407)	$76,510
		ATP Grant – Federal (418)	$15,290,000
		Redevelopment Project Fund (601)	$24,829
		Sales Tax Revenue Bond Proceeds (610)	$16,270,203
		Local Funding Sources To-be-Determined (Pending $11,157,330 RCP Grant)	$3,834,529**
Total:	**$49,306,998**	**Total:**	**$49,306,998**

*Actual Costs to date

**If the RCP Grant is awarded, the project budget will be adjusted accordingly. This would allow the City to reallocate a portion of the Sales Tax Revenue Bond proceeds currently programmed for this project to other eligible capital projects.

The issuance of the Letter of Credit is not an expenditure of City funds, as it would be 100% cash secured. The cash collateral (estimated between $550,000 and $1,000,000) would be transferred from the City's operating cash to a restricted, interest-bearing Certificate of Deposit. The City retains ownership of these funds, which are pledged as collateral. It is estimated that the Letter of Credit or another form of security would remain in place for five (5) to seven (7) years. Once the project mitigation is deemed successful by CDFW, the Letter of Credit is cancelled, and the funds are released. The security may also be substituted and adjusted down, subject to CDFW approval. The final amount of the Letter of Credit is still being finalized, but early cost estimates for the amount to be restricted are provided in Attachment 3.

Costs for issuing a Letter of Credit include a one-time fee of approximately $750-$1,000 and an annual fee of 1% of the principal amount. It is anticipated that interest earnings will offset the annual costs. Any net costs incurred would be supported by the project's budget.

The additional one-time mitigation fee payment of $44,900, would be funded from existing project funds. This payment is intended to avoid significantly higher construction delays and contractor standby costs that could result if permit-authorized work is postponed due to biological constraints.

ALTERNATIVES:

If the City Council does not authorize execution of the Letter of Credit or the one-time discretionary payment accepted by CDFW, permit-authorized construction activities could not proceed until all permit conditions are satisfied. If tree removal cannot occur prior to the nesting bird season, construction activities may be delayed until the following work window, potentially resulting in a delay of up to one year with substantial financial impacts to the project budget.

ATTACHMENTS:

1. Final Streambed Alteration Agreement (LSAA) EPMIS Notification No. EPIMS-SBA-41011-R5, San Jose Creek Multipurpose Path Project, Santa Barbara County
2. CDFW Letter of Credit Template (Draft)
3. Mitigation Cost Analysis

LEGAL REVIEW BY: Isaac Rosen, City Attorney

APPROVED BY: Robert Nisbet, City Manager

ATTACHMENT 1

Final Streambed Alteration Agreement (LSAA) EPMIS Notification No. EPIMS-SBA-41011-R5, San Jose Creek Multipurpose Path Project, Santa Barbara County

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region 5
3883 Ruffin Rd.
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

January 26, 2024

Teresa Lopes
City of Goleta
130 Cremona Dr. #B
Goleta, CA 93117
tlopes@cityofgoleta.org

Dear Teresa Lopes:

Final Streambed Alteration Agreement, EPIMS Notification No. EPIMS-SBA-41011-R5, San Jose Creek Multipurpose Path Project; Santa Barbara County

Attached is the final Streambed Alteration Agreement (Agreement) for the San Jose Creek Multipurpose Path Project (Project). Before the California Department of Fish and Wildlife (CDFW) may issue an Agreement, it must comply with the California Environmental Quality Act (CEQA). In this case, CDFW acting as a responsible agency filed a Notice of Determination (NOD) within five working days of signing the Agreement. The NOD was based on information contained in the Mitigated Negative Declaration prepared by the lead agency.

Under CEQA, the filing of an NOD triggers a 30-day statute of limitations period during which an interested party may challenge the filing agency's approval of the Project. You may begin the Project before the statute of limitations expires if you have obtained all necessary local, state, and federal permits or other authorizations. However, if you elect to do so, it will be at your own risk.

If you have any questions regarding this letter, please contact Sarah Rains, Environmental Scientist, at (661) 414-2729 or by email at sarah.rains@wildlife.ca.gov.

Sincerely,

DocuSigned by:
5991E19EF8094C3...
Victoria Tang, Environmental Program Manager

ec: California Department of Fish and Wildlife
Sarah Rains, Environmental Scientist
Susan (Sue) Howell, Staff Services Analyst
Region 5 Lake and Streambed Alteration Program
EPIMS.R5@wildlife.ca.gov

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
SOUTH COAST REGION 5
3883 RUFFIN RD.
SAN DIEGO, CA 92123

STREAMBED ALTERATION AGREEMENT
EPIMS-SBA-41011-R5
San Jose Creek

CITY OF GOLETA
SAN JOSE CREEK MULTIPURPOSE PATH PROJECT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and the City of Goleta (Permittee) as represented by Teresa Lopes.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) Section 1602, Permittee notified CDFW on July 17, 2023, that Permittee intends to complete the Project described herein.

WHEREAS, pursuant to FGC Section 1603, CDFW has determined that the Project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the Project in accordance with the Agreement.

PROJECT LOCATION

The San Jose Creek Multipurpose Path Project (Project) is split into two segments located along San Jose Creek within the City of Goleta, County of Santa Barbara, State of California; at the latitudes, longitudes, and Assessor's Parcel Numbers (APN) shown in Table 1 below.

Table 1 Latitude, Longitude, and APN

Latitude	Longitude	APN
34.440107	-119.816587	071-200-011
34.439419	-119.818243	071-090-074
34.438295	-119.818693	071-090-084
34.438702	-119.818678	071-350-009

34.438854	-119.818617	071-090-074
34.439623	-119-817504	071-090-074
34.439656	-119.817344	071-090-074
34.439803	-119.816769	071-090-074
34.440309	-119.816461	071-090-083
34.440309	-119.816459	070-090-082
34.439795	-119.816880	071-090-074
34.439408	-119.818216	071-090-047
34.440363	-119.816419	071-090-083
34.440712	-119.816442	071-090-082
34.440363	-119.816419	071-010-010
34.331158	-119.816842	000-000-000
34.439419	-119.818216	071-090-047
34.330210	-119.816484	071-090-083
34.440708	-119.816458	071-090-082
34.421115	-119.828971	071-200-011
34.421170	-119.828965	071-200-011
34.421162	-119.828918	070-200-011
34.424470	-119.826960	071-200-011
34.424470	-119.823960	000-000-000
34.424605	-119.826784	000-000-000
34.425276	-119.826237	000-000-000

The northern segment will run along the west bank of San Jose Creek from the existing bicycle and pedestrian facilities at Calle Real south to Armitos Avenue. The southern segment will run along the eastern bank of San Jose Creek from existing facilities on South Kellogg Avenue to the connection of the already existing bike path near the mouth of San Jose Creek within Goleta Slough. Maps of these locations are provided as Exhibits A and B of this Agreement.

PROJECT DESCRIPTION

The Project is the construction of a section of a multipurpose path along San Jose Creek in the City of Goleta that will eventually connect two existing multipurpose paths to create one continuous one. It will run generally from the terminus of an existing multipurpose path at Goleta Slough in the south to the terminus of an existing multipurpose path in the north just north of where San Jose Creek crosses underneath United States Route 101. For construction purposes, the path is split into two segments, northern and southern. Both the northern and southern segments of the Project take place within the limits of the stream; however, most Project activities are taking place along the top of the bank with no activities within the bed of the stream. The northern segment of the Project will run from the existing bicycle and pedestrian facilities

adjacent to Calle Real and head south adjacent to the west side of San Jose Creek to Armitos Avenue. It will consist of a paved multipurpose path approximately 2,400 feet in length ranging from 10 feet to 14 feet in width, including shoulder widths. The maximum excavation depth will be approximately 3.5 feet. The southern segment of the Project will run from existing facilities on South Kellogg Avenue, continue between the southern/eastern bank of San Jose Creek, follow outside the top of bank of San Jose Creek, along the southbound shoulder of California State Route 217 (SR 217), cross underneath SR 217 to finally meet up with the existing Class 1 Atascadero Creek Bikeway. It will consist of a paved multipurpose path approximately 1 mile in length ranging from 8 to 12 feet wide including shoulder widths. It will also include a 2-foot-wide and 3-foot-tall concrete barrier with a bicycle/pedestrian rail for purposes of separating the path from SR 217 (this will be replacing the existing chain link fence). The southern segment will include the construction of a pedestrian crossing over San Jose Creek near the northern end and the construction of a pedestrian box culvert under SR 217 near the southern end both of which will not result in impacts to the stream but are included in this Agreement for reference and proximity to the stream. The Project will include the construction of retaining walls, extensions of culvert drainages, areas of backfill, and removal of 39 trees. These activities are described in more detail below.

Pedestrian Crossing: The proposed pedestrian crossing will be constructed to provide access over San Jose Creek from South Kellogg Avenue in the southern segment. The bridge will be approximately 350 feet long and 12 feet wide, which will accommodate a 5-foot lane in each direction with a chain link railing on each side. It will fully span the existing flood walls of the San Jose Creek channel with bridge columns being set a minimum of 4 feet from the back of the flood wall to the face of the column. It will be constructed on cast-in-drilled hole (CIDH) piles to an approximate depth of 50 feet. No work will take place below the top of bank within the active channel of San Jose Creek; however, if groundwater is encountered, temporary casings will be used to prevent the flood wall from caving in.

Pedestrian Box Culvert: The proposed box culvert for pedestrians will be constructed to provide access underneath SR 217 in the southern segment. It will have a minimum 8-foot vertical clearance and be 14 feet wide for a length of approximately 144 feet. Wing walls will potentially be constructed on each end of the box culvert to contain the grading needed for construction. If needed, they will be connected to the SR 217 bridge wing walls. The box culvert will be a cast-in-place reinforced concrete box culvert founded on a shallow foundation. Construction will require over excavation by 3 feet with backfill using geogrid and Class 2 aggregate base below the culvert. No work will take place below the top of bank or within the active channel of San Jose Creek for this activity.

Retaining Walls: The Project will include the construction of retaining walls to support the path and minimize impacts to San Jose Creek by eliminating the need to place additional fill within the creek. The retaining walls will be constructed of reinforced concrete. The northern segment will include six sections of retaining walls ranging from 6 feet to 12 feet in height with spread footing foundation type ranging from 2 to 3.5 feet in depth. The lengths of the retaining walls range from 36 feet long to 204 feet long. The southern segment will include one 1,067-foot-long Type 7 retaining wall founded on Class 200 CIDH pile concrete pile caps to a height of 12 feet.

Culverts and Drainages: In areas where the proposed alignment of the path meets up with or will go over an existing drainage, the existing drainage will be extended across and under the path and with an outlet to the creek. In locations of proposed retaining walls, brow ditches will be constructed along the back of the retaining walls and piped under the path creating new outlets to the creek. All new or reconstructed (extended drainages) outlets to San Jose Creek will consist of flared end sections with rock slope protection, if needed, for energy dissipation.

Areas of Backfill: In areas where the proposed alignment of the path crosses areas where the streambank has eroded, fill will be placed to stabilize the bank and allow space for the path. The fill will consist of native material excavated within the Project area and paved when the creek is dry.

Exhibits C and D provide a list of the retaining walls, culverts and drainages, and areas of backfill with their specific locations within the Project alignment for the northern segment. Exhibits E and F provide a list of the activities with their specific locations within the Project alignment for the southern segment.

Tree Removal: The Project will remove 39 trees. Of those 39 trees, 5 of them are non-native sugar gum (*Eucalyptus cladocalyx)* and blue gum (*E. globulus*) and will be replaced with trees locally native to the area. Table 2 below provides the tree species to be removed with the ranges of diameter at breast height (dbh). A full list of trees being removed with their individual dbh's is included as Exhibit G of this Agreement.

Table 2. Tree Removals Summary

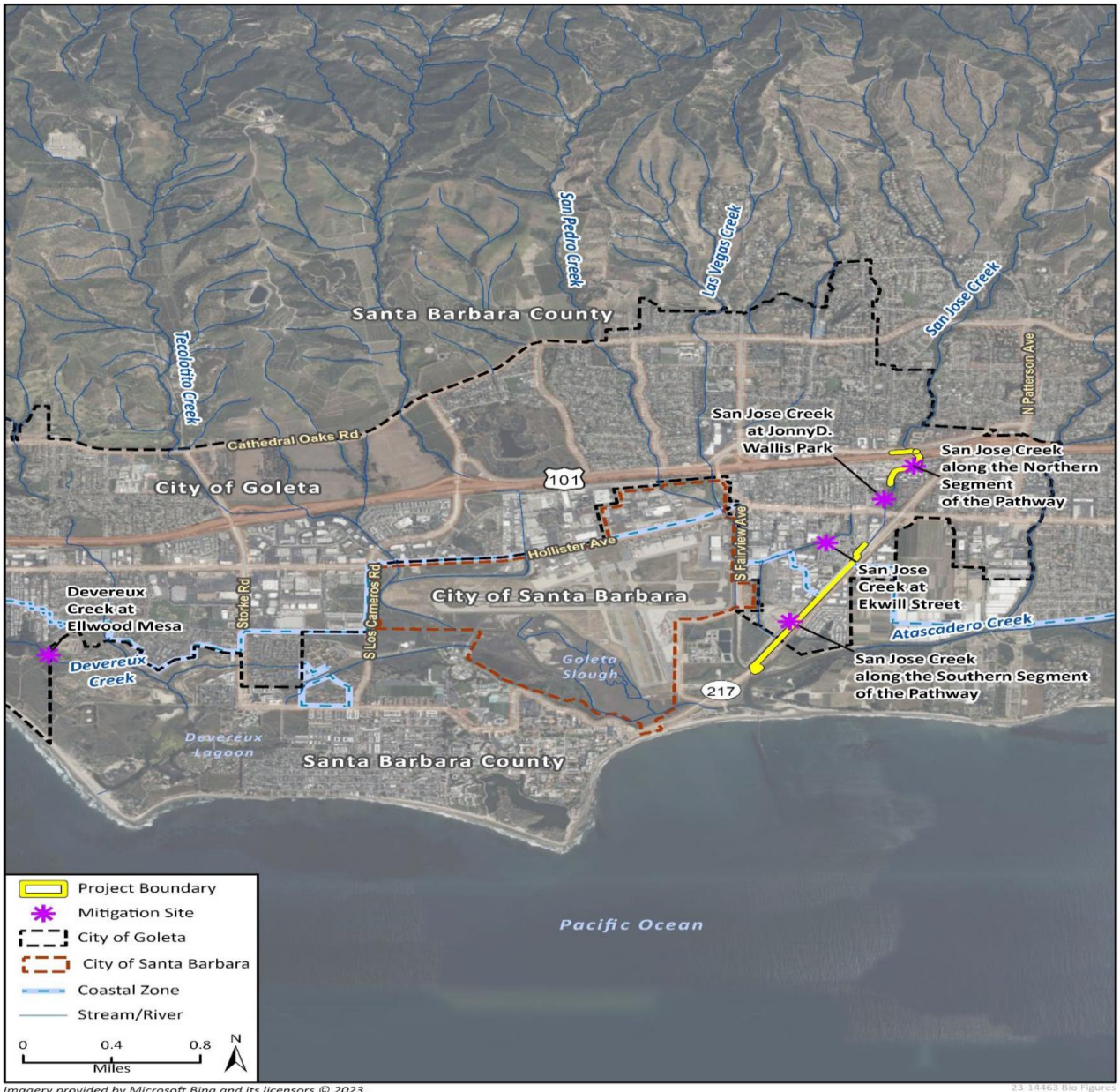
Scientific Name	Common Name	Number of Trees Removed	DBH Range (inches)
Eucalyptus cladocalyx and *E. globulus*	sugar gum and blue gum eucalyptus	5	4-74
Juglans californica	southern California black walnut	2	18-25
Platanus racemosa	western sycamore	8	4-42

Populus trichocarpa	black cottonwood	12	5-36
Quercus agrifolia	coast live oak	3	4-26
Salix lasiolepis	arroyo willow	9	4-23
Umbellularia californica	California bay	0	0
Total		**39**	**N/A**

Water Diversion: This project will take place when the stream is dry; therefore, no water diversion will be used or required.

Mitigation Project: Mitigation for this Project will follow a mitigation plan once approved and will take place both on site and off site at nearby locations. On-site mitigation will occur along both segments. Off-site mitigation will take place at Permittee-owned property along San Jose Creek at Johnny D. Wallis Park and Permittee-owned property west of Ekwill street/east of Pine Avenue (along old San Jose Creek). Additional off-site mitigation will take place at Devereux Creek on the east end of Ellwood Mesa Open Space Preserve. Figure B below provides a location of the Project and the general area of mitigation sites.

Figure B. Project Location with Mitigation Sites



In general, the woodland riparian corridor adjacent to San Jose Creek and Old San Jose Creek will be expanded and enhanced through the removal of invasive species and installation of native plants. These portions of the creeks are dominated by non-native species and would benefit from restoration activities. A total of 117 individual native trees will also be planted along this corridor. An additional 200 surplus native trees (not required as mitigation) will also be planted to further ensure a restored woodland and riparian function. Salt marsh habitat along Devereux Creek will also be

expanded and enhanced through the removal of invasive, non-native plant species and installation of native plants.

Removal of non-native plants will be achieved through hand removal methods (hand-held weed whips, loppers, hoes) as much as possible. Any non-native plant that cannot be removed by hand will be treated with herbicide approved for use near water. Only individual non-native plants will be treated as there will be no blanket spraying of herbicide. Non-native trees with either be removed completely or girdled and left in place. For trees that are able to be removed, stumps will either be grinded to ground level or 6-12 inches below ground level. Holes will be mechanically drilled through the stumps to allow for native plant installation. Trees may be chipped onsite and used as mulch once dry. *Eucalyptus* species will not be used as mulch unless they have been allowed to cure an appropriate amount of time.

Restoration activities will include installing native trees, shrubs, and herbaceous species to provide a multi-layer functioning habitat. Native plants will be obtained either from a local native plant nursery or from grown from seeds collected from the Project area and restoration areas prior to impacts. Collected seeds will be grown into container stock prior to being used for restoration. Native herbs and shrubs will be installed using 1-gallon or 4-inch containers. Native trees will be installed using 15-gallon containers, 1-gallon containers, or ½ gallon tree tubes.

Native plants will be installed to coincide with the first major winter storms to take advantage of moist soil conditions. Permittee proposes to plant using an on average 5-foot spacing for shrubs, vines, grasses, and forbs. Tree species will be installed on average at 10-foot spacing. Plant installation will be accomplished through hand tools such as a shovel, hand auger, or similar hand tool. Larger tree plantings may require medium to light-duty equipment. Mulch will be placed after installation.

The restoration sites will be irrigated through a temporary above ground drip emitter system. Irrigation will mimic growing-season water availability and will account for natural rainfall. Plants will be irrigated for up to 3 years with a gradual reduction of irrigation in the third year. All irrigation materials will be removed once they are no longer needed.

A set of performance criteria will be used to determine success for a 5-year maintenance and monitoring period. The 5-year maintenance and monitoring period will not begin until after the initial installation has been completed. The 5-year maintenance and monitoring portion includes a proposed 90-day plant establishment period. Maintenance will include non-native plant removal, watering, replanting, and repairing of damage to plants, erosion control devices, fencing, and/or signs that are a result of erosion or vandalism. Monitoring will be both qualitative and quantitative. Qualitative monitoring will take place monthly for the first year and every other month for years 2-5. Photographs will be taken at established photo-documentation points. Quantitative

monitoring will take place twice a year. Annual monitoring reports will be prepared and submitted to the permitting agencies.
Further information and details of this mitigation plan are available in the draft mitigation plan included as Exhibit G of this Agreement.

The following equipment will be used to complete the Project:
air compressor- finishing work
backhoe- soil manipulation, drainage work
Bid-well paving machine- concrete bridge deck finishing
Bobcat- fill distribution
bulldozer/loader- earthwork construction, clearing
crane- placement of falsework beams, pile installation concrete placement
drill rig and pile driver – pile construction
dump truck- fill material delivery
excavator- soil manipulation
flatbed truck – material handling and delivery
front-end loader – dirt or gravel manipulation
generators- power hand tools
grader – ground leveling
haul truck – earthwork construction, clearing
hoe ram- demolition
holding tanks- slurry storage and suspended solid water settling
hydraulic hammer- demolition, concrete removal
jack hammer – demolition, concrete removal
paver- asphalt concrete construction
pile driver – pile construction
roller/compactor- earthwork and concrete construction
rubber-tired boom truck- lifting
truck with seed sprayer- landscaping
water truck-earthwork construction, dust control

PROJECT IMPACTS

Existing fish or wildlife resources the Project could substantially adversely affect include:

Fish: southern California steelhead (*Onchorynchus mykiss*) range and critical habitat

Amphibians: red-legged frog (*Rana draytonii*), coast range newt (*Taricha tarosa*)

Reptiles: northern California legless lizard (*Anniella pulchra*), coast horned lizard (*Phyrnosoma blainvillii*), western pond turtle (*Actinemys marmorata*)

Birds: grasshopper sparrow (*Ammodramus savannarum*), white-tailed kite (*Elanus leucurus*), Belding's savannah sparrow (*Passerculus sandwichensis*), Anna's hummingbird (*Calypte anna*), house finch (*Haemorhous mexicanus*), northern

mockingbird (*Mimus polyglottos*), California towhee (*Pipilo crissalis*), black phoebe (*Sayornis nigricans*), turkey vulture (*Cathartes aura*), American crow (*Corvus brachyrhynchos*), Brewer's blackbird (*Euphagus cyanocephalus*), American coot (*Fulica americana*), song sparrow (*Melospiza melodia*), northern mockingbird (*Mimus polyglottos*), lesser goldfinch (*Spinus psaltria*), red winged blackbird (*Agelaius phoeniceus*), mallard (*Anas platyrhynchos*), great egret (*Ardea alba*), great blue heron (*Ardea herodias*), western sandpiper (*Calidris mauri*), black-necked stilt (*Himantopus mexicanus*), double-crested cormorant (*Phalacrocorax auritus*), rufous-sided towhee (*Pipilo erythrophthalmus*), violet-green swallow (*Tachycineta thalassina*)

Mammals: San Diego desert woodrat (*Neotoma lepida intermedia*), pallid bat (*Antrozous pallidus*), western mastiff bat (*Eumops perotis*)

Plants: Cushing manzanita (*Arctostaphylos glandulosa*), big berry manzanita (*Arctostaphylos glauca*), mugwort (*Artemisia douglasiana*), buckbrush (*Ceanothus cuneatus*), tall flatsedge (*Cyperus eragrostis*), willow herb (*Epilobium ciliatum ssp. ciliatum*), Canada horseweed (*Erigeron canadensis*), toyon (*Heteromeles arbutifolia*), Santa Cruz Island ironwood (*Lyonothamnus floribundus ssp.aspleniifolius*), California sycamore (*Platanus racemosa*), black cottonwood (*Populus trichocarpa*), coast live oak (*Quercus agrifolia*), interior live oak (*Quercus wislezeni*), sandbar willow (*Salix exigua*), arroyo willow (*Salix lasiolepis*), poison oak (*Toxicodendron diversilobum*), cattail (*Typha latifolia*), canyon sunflower (*Venegasia carpesioides*), sagebrush (*Artmisia californica*), big saltbush (*Atriplex lentiformis*), coyote bush (*Baccharis pilularis*), mulefat (*Baccharis salicifolia*), alkali bulrush (*Bolboschoenus maritimus*), saltgrass (*Distichlis spicata*), alkali heath (*Frankenia salina*), coastal goldenbush (*Isocoma menziesii*), spiny rush (*Juncus acutus*), common reed (*Phragmites australis*), pickleweed (*Salicornia virginica*), tule (*Schoenoplectus acutus var. occidentalis*), California bulrush (*Schoenoplectus californicus*)

And all other aquatic and wildlife resources in the area, including the riparian vegetation which provides habitat for such species in the area.

The Project would result in 0.53 acre of permanent impacts and a total of 0.24 acre of temporary impacts. These impacts and the habitats being impacted are provided in Table 3 below.

Table 3. Project Impacts

Habitat Type	Permanent Impact (acre)	Activity	Temporary Impact	Activity
CA Sycamore-Coast Live Oak Riparian Woodland	0.35	Construction and path alignment	0.21	Construction access/staging areas/ cute and fill

Intermittent Stream and steelhead Critical Habitat	0.005	Grading and placing of rock slope protection for energy dissipation	0.03	Grading for placing rock slope protection for energy dissipation
Arroyo Willow Riparian Thicket	0.15	Vegetation trimming for path alignment	0.00	N/A
Coastal Marsh	0.02	Path alignment	0.00	N/A
Total	**0.53**		**0.24**	

In addition to the impacts to habitats provided in the table above, the Project will also be removing 39 trees, of which 5 are non-native. The adverse effects the Project could have on the fish or wildlife resources identified above include: 1) removal of trees, including non-native trees, and other vegetation will decrease the habitat used as cover, food sources, and nesting sites for all wildlife species, including amphibians; 2) removal of trees and other vegetation overhanging the stream will result in a loss of shade and cause an increase in water temperature and dissolved oxygen levels; 3) trees and other vegetation that undergo trimming or have damage from equipment activities will be further prone to disease or death; 4) newly exposed banks will be unstable until sediments are redeposited or revegetated; 5) disturbing or exposing soil could increase the production of sediment, which could migrate downstream, and could suffocate frog egg masses or fish redds if work is done in winter or early spring or cause fish to change their original course upstream or downstream to avoid the additional sediment; 6) if work is done during the bird nesting season, nesting behavior could be disrupted, or nests abandoned and destroyed, including those of cavity nesters; 7) heavy equipment could bury or crush small mammals or reptiles in burrows, destroy the nests or young of ground nesting birds, or run over individual animals that are not able to escape the path of the equipment; 8) dust from operations could settle on vegetation and coat stomata, preventing the vegetation from normal respiration and reducing pollination, seed set, and photosynthesis; 9) concrete dust from structure removal could reach a pH level toxic to aquatic species if it has contact with moisture; 10) concrete released into water has a pH of 12, which is lethal to all aquatic wildlife; and 11) solid waste and litter could contaminate downstream water channels.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the Project site always and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency, upon request.

1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the Project at the Project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.

1.3 Notification of Conflicting Provisions. Permittee shall notify CDFW if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the Project by another local, state, or federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.

1.4 Project Site Entry. Permittee agrees that CDFW personnel may enter the Project site at any time during implementation in accordance with site safety and security protocols to verify compliance with the Agreement.

1.5 Project Initiation and Completion. Permittee shall notify CDFW, by e-mail, at least five (5) days prior to initiation of construction (Project) activities and at least five (5) days prior to completion of construction (Project) activities.

1.6 Changes in Project. If the Project scope, nature, or environmental impact is altered by subsequent permit conditions by a local, state or federal regulatory authority, Permittee shall either submit an Amendment request or re-Notify CDFW of any Project modification which conflicts with current conditions or Project description.

1.7 Compliance. CDFW may, at its sole discretion, review relevant documents maintained by the Permittee, interview the Permittee's employees and agents, inspect the work site, and take other actions to assess compliance with or effectiveness of protective measures in this Agreement. CDFW shall verify compliance with protective measures to ensure the accuracy of the Permittee's mitigation, monitoring and reporting efforts.

1.8 Agreed Work Activities. The activities identified in the above Project description constitute the limit of activities agreed to and resolved by this Agreement. The signing of this Agreement does not imply that the Permittee is precluded from doing other activities within the streams identified within the Project location. However, activities not specifically agreed to and resolved by this Agreement shall be subject to a separate notification.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

Definitions

2.1 Qualified Biologist Definition. A Qualified Biologist is an individual who is approved by CDFW to handle all terrestrial/aquatic common species and species of special concern listed above.

2.2 Listed Species Definition. A listed species means a candidate, threatened, or endangered species under the California Endangered Species Act (CESA) (Fish &G. Code, §2050 et seq.).

2.3 Fully Protected Species Definition. Fully protected species are those specifically identified in the Fish and Game Code sections 3511, 4700, 5050, and 5515.

Species Protection

2.4 This Agreement Does Not Authorize Take of State-listed Species. This Agreement does not authorize take of any candidate, threatened, or endangered or candidate species under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), or any species fully protected under the Fish and Game Code. “Take” means “to hunt, pursue, catch, capture or kill or attempt to hunt, pursue, catch, capture, or kill.” (Fish & G. Code, § 86.). If there is potential for take of any CESA-protected or fully protected species, Permittee shall consult with CDFW.

2.5 Other Laws and Permits. This Agreement does not relieve Permittee from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the Project the Agreement covers.

2.6 Incidental Take Permit for Rare, Threatened, or Endangered Species. Permittee shall notify CDFW in the event of the discovery of any rare, threatened, or endangered species prior to commencement of construction; work may not proceed unless either: 1) CDFW concurs in writing that take of CESA-listed species is unlikely; or 2) an Incidental Take permit pursuant to Fish and Game Code section 2081 is acquired.

2.7 Environmental Education Program/Materials. Educational materials shall be created and incorporated into an environmental training, to be conducted for all Project personnel entering the Project area where sensitive habitats and/or species may be present. Educational materials may be brief and concise but shall illustrate sensitive species and their habitat, discuss any specific measures to protect the species, what to do if the species is observed, and so forth. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be

provided for any new workers prior to their performing work on site. Permittee shall prepare and distribute wallet-sized cards or a fact sheet for workers to carry on site that contains this information and pertinent Project contacts. Upon completion of the education program, employees shall sign a form stating they attended the program and understand all protection measures. These forms shall be filed at the worksite offices and be available to CDFW upon request.

2.8 Qualified Biologist. Permittee shall obtain CDFW's written approval to qualify a biologist at least (14) days before initiating any Project activities. Permittee shall submit to CDFW in writing, the name, qualifications, business address, and contact information for any biologist to conduct work under this Agreement. The Qualified Biologist shall be knowledgeable and experienced in the biology and natural history of local fish and wildlife resources present at the Project site, and they shall have experience identifying, capturing, handling, and relocating the wildlife species. The Qualified Biologist shall be responsible for monitoring all Project activities, including construction and any ground-or vegetation-disturbing activities in areas subject to this Agreement.

2.9 On-site Biologist with Stop Work Authorization. Permittee shall have a Qualified Biologist on site to ensure all avoidance and minimization measures this Agreement requires are implemented. The biologist shall be authorized to stop Project activities if necessary to protect fish and wildlife resources. If Permittee encounters a listed or fully protected species during a Project activity that could be harmed, Permittee shall suspend work and consult with CDFW.

2.10 Terrestrial Wildlife Species. To avoid impact to any non-listed terrestrial wildlife species, a Qualified Biologist shall inspect the Project area prior to any Project activities. Any individuals found shall not be harassed and shall be allowed to leave the Project area unharmed. If needed, a Qualified Biologist may guide, handle, or capture an individual non-listed wildlife species to move it to a nearby safe location within nearby refugium, or it shall be allowed to leave the Project site of its own volition. Capture methods may include hand, dip net, lizard lasso, snake tongs, and snake hook. If the wildlife species is discovered or is caught in any pits, ditches, or other types of excavations, the Qualified Biologist shall release it into the most suitable habitat nearby the site of capture.

2.11 Daily Clearance Survey. Before the start of daily Project activities, the Qualified Biologist shall survey the Project area to ensure wildlife incidentally trapped due to Project activities are allowed to escape.

2.12 Relocation of Stranded Wildlife. If found within the Project site, the Qualified Biologist shall capture and move all species authorized by this agreement immediately. Measures shall be taken to avoid harm and mortality resulting from relocation activities.

2.13 Wildlife Records. A record shall be maintained of all wildlife. The record shall include the date of capture, the method of capture, the location of movement relation to the Project site, and the number and species moved. The record shall be provided to CDFW within two (2) weeks of the completion of the work season or Project activities, whichever comes first.

2.14 Injured Wildlife. Subject to CDFW's pre-approval, the Qualified Biologist shall also make arrangements with a CDFW-qualified wildlife rescue and rehabilitation facility to temporarily hold sick or injured wildlife encountered at the Project site, in accordance with California Code of Regulations, Title 14, Section 679. The injured wildlife shall be returned to the Project site when deemed releasable, but only after Project activities have been completed. Healthy wildlife shall not be removed from the wild or held in captivity.

2.15 Report Mortalities and Serious Injuries Immediately. If any native species are found dead or injured during Project activities, the Qualified Biologist shall contact CDFW within two (2) hours and shall provide written notification to CDFW by writing within 24 hours. The purpose of the contact with CDFW is to review the activities resulting in mortality and to determine if additional protective measures are required.

2.16 Notification to the California Natural Diversity Database. If any special-status species are observed during Project implementation, the Permittee shall submit the California Natural Diversity Data Base (CNDDB) Online Field Survey Form electronically at https://www.wildlife.ca.gov/data/CNDDB/submitting-data within five (5) days of the sightings and provide a copy of "receipt" of the submission or the form, survey map and/or report to the Environmental Permitting Information Management System (EPIMS).

2.17 Pre-Work General Biological Surveys. Permittee shall have the Qualified Biologist conduct one (1) pre-Project survey within and adjacent to the proposed work area within a one (1) week period prior to Project-related activities commencing for the season or if work is paused for five (5) days or more. This survey shall be performed annually before the start of Project-related activities for the season. Pre-Project surveys shall include: a) general surveys for botanical and wildlife resources; b) the identification of any active burrows and/or woodrat nests (if active, they should be recorded, monitored for species observations, and mapped); c) work areas with flowing or standing water shall be visually surveyed for any aquatic species that may be impacted by Project activities; and if applicable, d) surveys of culvert and bridge areas to determine if these structures are being used for nesting, roosting, or habitat refugia. Survey results, including negative findings, analysis, recommendations, and field notes shall be submitted to CDFW for review no later than 72 hours prior to the start of Project activities. If any special status species are observed during the surveys, Permittee shall not commence with work activities and will contact CDFW immediately. If a lapse in Project-related work of

five (5) days or longer occurs, another survey and consultation with CDFW shall be required before Project work can be reinitiated.

Fish

2.18 Candidate Listing of Southern Steelhead. On April 21, 2022, the California Fish and Game Commission (Commission) determined that listing southern California steelhead as threatened or endangered under CESA may be warranted. During the status review, southern California steelhead is protected under CESA as a candidate species pursuant to Section 2085 of the Fish and Game Code, provided that notice has been given as required by Section 2074.4 of the Fish and Game Code. Permittee is prohibited from undertaking or authorizing activities that result in take of any endangered, threatened, or candidate species, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14 §786.9.).

2.19 Southern Steelhead Seasons. No work shall be conducted within the flowing or ponded water within the stream, which has potential to support southern California steelhead. Adult southern California steelhead and/or smolts may be in the area passing through during the months of November 1 through July 15. Permittee may continue work past November 1 should it become necessary only if no measurable rain (0.1 inch or less) is forecasted for a 14-day period following October 31. Otherwise, Permittee shall not work during these times to avoid indirect impacts.

2.20 Southern California Steelhead Protection. Any structure/culvert placed within the stream where fish may occur shall be designed, constructed, and maintained such that it does not constitute a permanent barrier to upstream or downstream movement of aquatic life including steelhead, or cause an avoidance reaction by fish that impedes their upstream or downstream movement. This includes but is not limited to the supply of water at an appropriate depth, temperature, and velocity to facilitate upstream and downstream fish migration. If any aspect of the proposed Project results in a long-term reduction in fish movement, Permittee shall be responsible for all future activities and expenditures necessary (as determined by CDFW) to secure passage of fish across the structure.

2.21 Reporting Southern California Steelhead. If flowing or ponded water is within the proposed work limits of a stream known to have, or could contain southern California steelhead, Permittee shall email R5LSACompliance@wildlife.ca.gov and cc Sarah Rains at sarah.rains@wildlife.ca.gov prior to commencing activities within the bed, bank, and channel. Permittee shall leave his/her name, date and time, telephone number, the stream name, work location, nature of planned activities and proposed schedule. This Agreement does not allow for mortality of southern California steelhead. Should any fish mortality occur, it shall be reported immediately to CDFW.

Amphibians

2.22 California Red-Legged Frog and Coast Range Newt- Pre-Project Survey. Two weeks prior to the onset of any project-related activities, the Qualified Biologist shall inspect the project work area and areas adjacent to the project area for California red-legged frog (CRLF) adults, tadpoles, and egg masses and coast range newts (CRN). Survey limits shall be determined by the Qualified Biologist and shall include all areas within the project footprint. Survey results including negative findings, analysis, and recommendations, along with the field notes, shall be provided to CDFW for review and approval no later than 48 hours prior to commencing construction. Prior to conducting these surveys, the Qualified Biologist shall identify appropriate areas to relocate CRLF adults and tadpoles and CRN taken from the project areas. These areas shall be in proximity to the capture site, contain suitable habitat, not be affected by project activities, and be free of exotic predatory species (i.e., bullfrogs, crayfish) to the best of the approved biologist's knowledge. Movement of CRLF and CRN shall only be performed by the approved Qualified Biologist. In the rare case that egg masses are found after July 1st, Permittee shall wait until the egg masses hatch to transport them.

2.23 California Red-Legged Frog and Coast Range Newt- Exclusion Fencing and Protection. Exclusion fencing shall be installed around the project area and staging area. Permittee shall have exclusion fencing installed to avoid burrows that CRLF or CRN may be residing in so that the burrows are isolated from the active work area when possible. The Qualified Biologist shall accompany the exclusion fence construction crew to ensure that CRLF and CRN are not killed or injured during fence installation. If any CRLF or CRN are observed within the project area prior to completion of the exclusionary fence, the Qualified Biologist shall relocate them in accordance with measure 2.22 above. After installation of the fence barrier, a Qualified Biologist shall daily inspect the project work area prior to the commencement of activities. If it is determined that sensitive species are not within the work area, equipment or materials may be moved onto the work site under the observation of the Qualified Biologist. In the event CRLF or CRN are found in the project area, the Qualified Biologist shall have the authority to halt work activities that may affect CRLF adults, tadpoles, or egg masses or CRN until they can be moved out of harm's way. The Qualified Biologist shall then direct and inspect all vegetation and sediment removal activities for the presence of frog adults, tadpoles, or egg masses or CRN. Vegetation removed shall be placed directly into a disposal vehicle and removed from the site. Vegetation shall not be piled on the ground unless it is later transferred under the direct supervision of the Qualified Biologist.

Herpetofauna

2.24 Special Status Reptile Species. Within one week prior to Project-related activities commencing, the Qualified Biologist shall conduct surveys to determine the

presence of special status reptile species, such as coast horned lizard, northern California legless lizard, western pond turtle, or other rare or protected species. This survey shall be completed annually before the start of work for the season or if there is a pause in Project-related activities of five (5) days or more. Separate and species-specific surveys shall be conducted at the appropriate time and with the appropriate methodology to determine if any special status reptile species are present within the Project area. Surveys shall incorporate appropriate methods to detect these species, including individuals that could be concealed in burrows, beneath leaf litter, or in loose soil prior to any Project activities in areas that have or may have the potential to support these species. Upon completion of surveys and no later than five (5) days prior to the start of Project-related activities, the survey results, including negative findings, analysis, recommendations, and field notes shall be provided to CDFW for review. If any special status reptile species is positively identified within the Project area, then the analysis and recommendation section shall include measures that will be taken for avoidance based on species and site-specific information. Should any special status reptiles be found during pre-Project surveys in an identified work area, the Qualified Biologist shall stop all earthmoving activities within 100 feet, the individual found shall not be harassed, and the Qualified Biologist may capture the individual by hand and move it to a nearby safe location with appropriate habitat, or it shall be allowed to leave the Project site of its own volition. CDFW shall review and provide written approval of other avoidance measures provided by the Qualified Biologist in the report.

Birds

2.25 Take of Nesting Birds. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code Section 3513 makes it unlawful to take or possess any migratory nongame bird or part thereof except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918 (MBTA; 16 U.S.C. § 703 et seq.) before January 1, 2017, and subsequent rules and regulations adopted pursuant to the MBTA that are consistent with the Fish and Game Code. The issuance of this Agreement does not in any way exempt or excuse compliance with these statutes.

2.26 Nesting Birds. It is the Permittee's responsibility to avoid impacts to nesting birds **anytime birds are nesting on-site**. Permittee shall ensure that impacts to nesting birds are avoided through the implementation of preconstruction surveys, ongoing monitoring, and if necessary, establishment of minimization measures.

2.26.1 Qualified Avian Biologist(s). Permittee shall designate a qualified Avian Biologist (Avian Biologist(s)) experienced in identifying local and migratory bird species; conducting bird surveys using appropriate survey methodology (e.g., Ralph et al. 1993[1]and United States Fish and Wildlife Service and/or CDFW-accepted species-specific survey protocols); nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success (e.g., Martin and Geupel 1993[2]); determining/ establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.

2.26.2 Pre-Construction Surveys. Surveys shall be conducted by the Avian Biologist(s) at the appropriate time of day/night, during appropriate weather conditions, **no more than three (3) days prior to the initiation of project activities** addressed by this Agreement. (Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the property; density and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. Pre-project surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior (e.g., copulation, carrying of food or nest materials, nest building, removal of fecal sacks, flushing suddenly from atypically close range, agitation, aggressive interactions, feigning injury or distraction displays, or other behaviors). If a nest is suspected, but not confirmed, the Avian Biologist(s) shall establish a disturbance-free buffer until additional surveys can be completed, or until the location can be inferred based on observations. The Avian Biologist(s) shall not risk failure of the nest to determine the exact location or status and will make every effort to limit the nest to potential predation as a result of the survey/monitoring efforts (e.g., limit number of surveyors, limit time spent at/near the nest, scan the site for potential nest predators before approaching, immediately depart nest area if indicators of stress or agitation are displayed). If a nest is observed, but thought to be inactive, the Avian Biologist(s) shall monitor the nest for 1 hour (4 hours for raptors) prior to approaching the nest to determine status. The Avian Biologist(s) shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate. Results of pre-activity surveys shall be provided to CDFW no later than 48 hours prior to project implementation.

2.26.3 Buffers. When an active nest is confirmed, the Avian Biologist(s) shall immediately establish a conservative buffer surrounding the nest based on their

[1] Ralph, C.J., G.R. Geupel, P. Pyle, T.E. Martin, and D.F. DeSanta. 1993. Handbook of field methods for monitoring landbirds. General Technical Report PSW-GTR 144. USDA Forest Service Pacific Southwest Research Station. Albany, CA.

[2]Martin, T.E. and G.R. Geupel. 1993. Nest-monitoring plots: methods for locating nests and monitoring success. Journal of Field Ornithology 64:507-514.

best professional judgement and experience. The buffer shall be delineated to ensure that its location is known by all persons working within the vicinity but shall not be marked in such a manner that it attracts predators. Once the buffer is established, the Avian Biologist(s) shall document baseline behavior, stage of reproduction, and existing site conditions, including vertical and horizontal distances from proposed work areas, visual or acoustic barriers, and existing level of disturbance. Following documentation of baseline conditions, the Avian Biologist(s) may choose to adjust the buffer based on site characteristics, stage of reproduction, and types of project activities proposed at/near that location. The Avian Biologist(s) shall monitor the nest at the onset of Project activities addressed by this Agreement, and at the onset of any changes in project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Avian Biologist(s) determines that Project activities may be causing an adverse reaction, the Avian Biologist(s) shall adjust the buffer accordingly.

2.26.4 Protection from Excessive Sound. If Project activities must take place within the buffer, a qualified acoustician shall monitor noise as work approaches the edge of the occupied habitat as directed by the Avian Biologist(s). If the noise meets or exceeds the 60 dB(A) Leq threshold, or if the Avian Biologist(s) determines that activities are disturbing nesting activities, the Avian Biologist(s) shall have the authority to halt the project activities and shall consult with CDFW to devise methods to reduce the noise and/or disturbance. This may include methods such as, but not limited to, turning off vehicle engines and other equipment whenever possible to reduce noise, installing a protective noise barrier between the nesting birds and the activities, and working in other areas until the young have fledged. Protective noise barriers shall be removed when birds are done nesting and shall not remain installed in the Project site during the rainy season if within the floodplain of the stream(s). The Avian Biologist(s) shall monitor the nest daily until activities are no longer within the buffer area established in 2.26.3 above, or the fledglings become independent of their nest, or the nest has failed.

2.26.5 Ongoing Monitoring. The Avian Biologist(s) shall be onsite daily when active nests are present to monitor all existing nests, the efficacy of established buffers, and to document any new nesting occurrences. If work is not disturbing existing nests, the daily monitoring requirement may be reduced upon CDFW review. The Avian Biologist(s) shall document the status of all existing nests, including the stage of reproduction and the expected fledge date, when this can be determined without endangering the nest by disturbance or alerting predators. If a nest is suspected to have been abandoned or failed, CDFW recommends the Avian Biologist(s) monitor the nest for a minimum of 1 hour (4 hours for raptors), uninterrupted, during favorable field conditions. If no activity is observed during that time, the Avian Biologist(s) may approach the nest to assess the status.

2.26.6 Securing Site. Permittee, under the direction of the Avian Biologist(s), may also

take steps to discourage nesting on the project site, including moving equipment and materials daily, covering material with tarps or fabric, and securing all open pipes and construction materials. The Avian Biologist(s) shall ensure that none of the materials used pose an entanglement risk to birds or other species.

2.26.7 Reporting. The Avian Biologist(s) shall be responsible for providing summary reports, as specified in Measure 3.2 to CDFW no less than once weekly regarding the nesting species identified on site, discovery of any of new nests, the status/outcome of any previously identified nest, buffer distances established for each nest, and any adjustments made to established buffers. If the project results in the abandonment of, or damage to a nest, Permittee shall notify CDFW within 24 hours.

Mammals

2.27 Bat Surveys. Prior to the commencement of Project-related activities, the Qualified Biologist shall conduct presence/absence surveys for pallid bat, western mastiff bat, and any other bat Species of Concern at the Project site in the mature trees, rocky cliff faces, caves, buildings, and under nearby bridges or culverts. Negative survey results shall be provided to CDFW prior to commencing Project activities. If bats are found, Permittee shall avoid the bat roosts with a 500-foot buffer and immediately notify CDFW for further actions. The Qualified Biologist shall monitor the area for sensitivity to Project activities and stop Project activities immediately if the roosts appear to be disturbed. The Permittee shall contact CDFW for additional measures and receive approval prior to resuming Project-related activities.

2.28 San Diego Desert Woodrat. A pre-construction survey for San Diego desert woodrat shall be conducted by the Qualified Biologist within two (2) weeks prior to Project-related activities commencing. Survey results, including locations of any detected individuals or nests, negative findings, analysis recommendations, and field notes shall be submitted to CDFW for review no later than 48 hours prior to the start of Project activities. If San Diego desert woodrat nests are present, Permittee shall avoid the nest with a 50-foot buffer and shall immediately notify CDFW for further actions.

General Species Protection

2.29 Non-listed Special Status Species and other Vertebrates. The Qualified Biologist shall be present during work in all rivers, streams, or lakes during all vegetation, sediment, and debris removal activities to monitor for non-listed, special-status, and/or common ground-dwelling vertebrates encountered in the path of Project-related activities. The Qualified Biologist shall make every effort to move the species out of harm's way to the extent feasible by doing one of the following: (1) Utilize shovel, rake, or similar hand tool to gently re-direct the animal out of work area; (2) Install silt fence or other exclusionary fencing to prevent species from re-entering disturbance area; and (3) If the Qualified Biologist has the appropriate

handling permits, capture/move species to appropriate habitat outside the disturbance area. The Qualified Biologist shall have the authority to temporarily stop Project activities until the species is determined to be out of harm's way. Should CDFW personnel visit the site during Project-related activities occurring within all rivers, streams, or lakes at the Project site and no Qualified Biologist is available, Project activities within all rivers, streams, or lakes shall be halted.

2.30 Check for Wildlife in Pipes / Construction Materials. Permittee shall visually check all sections of pipe for the presence of wildlife prior to being removed from the Project site. If any sections of pipes are being stored on-site for any length of time, Permittee shall have a visual check performed to ensure wildlife is absent and then cap all ends to prevent wildlife entry.

2.31 Escape Ramp in Trench. Permittee shall backfill or cover areas of excavation (e.g., pits, trenches, holes) overnight and during periods of inactivity, or install routes of escape (e.g., ramp constructed of dirt fill or wood planking or other suitable material that is placed at an angle no greater than 30 degrees) from excavated pits and trenches for wildlife that could potentially become entrapped.

2.32 Pets. Permittee shall not permit pets on the construction site.

2.33 Safety. Permittee shall ensure that no guns/or other weapons are on-site during construction, with the exception of security personnel and only for security type functions. No hunting shall be authorized during construction.

2.34 Public Trespass. The work area shall be secured from trespass when (as determined by CDFW) fish or wildlife resources are vulnerable to damage from unsupervised public access.

2.35 Rodent control. No rodent poisons or rodenticide shall be used to control rodents. These products, even used properly, can lead to secondary exposure to wildlife.

Habitat Protection

2.36 Special Status Plants. Special status plant species (including but not limited to Coulter's saltbush, southern tarplant, salt marsh bird's beak, and Coulter's goldfields) have the potential to occur within the Project work area where suitable habitat is present. The Qualified Biologist shall conduct at least three protocol level surveys during the blooming season before commencing Project activities. CDFW 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities can be found at: (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline). Survey reporting shall be provided to CDFW at least one week prior to start of Project activities. If sensitive plant species are identified, the Qualified Biologist shall identify them with flagging and avoid with a 100-foot no-disturbance buffer during

Project activities. If this avoidance is not feasible, Permittee shall consult with CDFW to determine whether a buffer reduction or alternative minimization for non-listed species is possible. Permittee shall not encroach on the 100-foot buffer unless CDFW provides written approval to do so.

2.37 Work Area Boundary. Work area boundaries shall be delineated by posting signs, staking, flagging, erecting temporary fencing, or otherwise clearly marking to minimize surface and vegetation disturbance. No paint or permanent discoloring agents shall be applied to rocks or vegetation to indicate limits of survey or maintenance activity where any sensitive biological resources occur. All temporary fencing and flagging shall be removed at the conclusion of Project activities.

2.38 Vegetation Removal. Excluding the impacts to native trees defined herein, no native vegetation with a dbh in excess of three (3) inches, other than *Salix* sp. (willows), shall be removed or damaged without prior consultation and approval of a CDFW representative.

2.39 Trimming. Trimming is defined herein as the removal of vegetation to the extent necessary to allow a specific level of access *(e.g., single lane of vehicles)* for specific types of equipment *(e.g., excavator or horizontal drill).* There shall be no vegetation removal in excess of what is necessary to allow the level of access needed.

Avoid/Minimize Effects of Equipment and Access

2.40 Heavy Equipment in Wetted Areas. Heavy equipment shall not be operated in wetted areas (including but not limited to the creek channel, ponded, flowing, or wetland areas).

2.41 Equipment and Vehicle Leaks. Any equipment or vehicles driven and/or operated within or adjacent to the stream shall be cleaned prior to entering the stream, checked, and maintained daily to prevent leaks of materials that could be deleterious to aquatic and terrestrial life including oil, grease, hydraulic fluid, soil, and other debris. In addition, equipment shall be cleaned daily to ensure non-native species are not introduced into mitigation areas or spread between Project sites. Cleaning of equipment shall take place outside of the stream. No equipment maintenance or fueling shall be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter these areas. Stationary equipment such as motors, pumps, generators, and welders, located within or adjacent to the stream shall be positioned over drip pans. Stationary heavy equipment shall have suitable containment to handle a catastrophic spill/leak.

2.42 Building Material Storage. Project building material and/or construction equipment shall not be placed where materials could pass into the waters of the state or

where they may cover aquatic or riparian vegetation. Staging/storage areas for equipment and materials shall be located outside of streams.

2.43 Minimize Vehicle Parking. Vehicles may enter and exit the work area as necessary for Project activities but may not be parked overnight in areas other than the staging area, existing parking lots or driveways within ten (10) feet of the drip line of any trees; nor shall vehicles be parked where mechanical fluid leaks may potentially enter the waters of the state.

2.44 Pollution and Litter Laws. Permittee shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of Permittee to ensure compliance.

2.45 Spills. The clean-up of all spills shall begin immediately. CDFW shall be notified immediately by Permittee of any spills and shall be consulted regarding clean-up procedures.

2.46 Wet Concrete. No concrete or any cement product may be poured if measurable rain (1/4 inch or more) is forecasted (as defined by NOAA) within 7 days. If any concrete is poured after November 1st, a quick cure ingredient shall be added to the concrete mix to ensure a faster set or drying time. Cement and concrete shall not be poured within 150 feet of a stream during rain or forecasted rain of ¼ inch or more within 7 days.. Cement shall not be poured in or near a flowing stream, to reduce the potential for significant adverse impacts to the stream, water, or biota without prior approval. To prevent the release of materials that may be toxic to fish and other aquatic species, the poured concrete structure(s) shall be isolated from water and allowed to dry/cure for a minimum of 30 days. As an alternative, the Permittee shall monitor the pH of any water that has come into contact with the poured concrete. If this water has a pH of 9.0 or greater, the water shall be pumped to a tanker truck or to a lined off-channel basin and allowed to evaporate or be transported to an appropriate facility for disposal. During the pH monitoring period, all water that has come in contact with poured concrete shall be isolated and not allowed to enter the water or otherwise come in contact with fish and other aquatic resources. The water shall be retested until pH values become less than 9.0. Once this has been determined, the area no longer needs to be isolated. Results of pH monitoring shall be made available to CDFW upon request. A non-toxic substance that can buffer the pH shall be made available on-site to use if any contamination to water occurs.

2.47 Pollution, Sedimentation, and Litter. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, construction waste, cement or concrete or washings thereof, asphalt, paint, oil or other petroleum products or any other substances which could be hazardous to aquatic life, or other organic or earthen material from any logging, construction, or other associated Project-related activity, shall be allowed to contaminate the soil and/or enter into or placed where it may be washed by rainfall

or runoff into, waters of the State. Any of these materials, placed within or where they may enter a stream or lake, by Permittee or any party working under contract, or with the permission of Permittee, shall be removed immediately. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high-water mark of any stream or lake.

2.48 Rock, Gravel, and/or Other Materials. Rock, gravel, and/or other materials shall not be imported to, taken from, or moved within the bed or banks of the stream, except as addressed in this Agreement. Water shall not be pumped from the channel and used for dust control or any other use in the Project.

2.49 Removal of Existing Structure. When removing any existing structure, Permittee shall contain all materials, including dust from the channel, at the end of every day. Tarps shall be suspended around the structure to contain dust, especially concrete dust, and the area shall be vacuumed on a daily basis.

2.50 Weather Limitations. Permittee's activities within the stream shall be limited to the dry period of the year, when the stream is not actively flowing, and/or when no measurable rain (1/2 of an inch) with 50% or greater probability is forecasted within 72 hours. If measurable rain with 50% or greater probability is predicted within 72 hours of construction, all activities within streams shall cease and protective measures to prevent siltation/erosion shall be implemented/maintained. No work shall be conducted within streams during rain events.

2.51 Post-Storm Event Inspection. After any storm event, Permittee shall inspect all sites scheduled to begin or continue construction within the next 72 hours. Corrective action for erosion and sedimentation shall be taken as needed. National Weather Service 72-hour weather forecasts shall be reviewed prior to the start of any phase of the Project that may result in sediment runoff to the stream, and construction plans adjusted to meet this requirement. The National Weather Service forecast can be found at: http://www.nws.noaa.gov.

2.52 Hours of Operation and Lighting. No night work requiring the use of artificial lighting is permitted in areas within streams.

2.53 Trash Receptacles. Permittee shall install and use fully covered trash receptacles with secure lids (wildlife proof) to contain all food, food scrapes, food wrappers, beverage and other miscellaneous trash. Permittee shall pick up all debris and waste daily.

Drilling

2.54 Dry Conditions. Boring/drilling shall occur in the stream only when weather conditions are dry, and no water is flowing in the channel in the immediate vicinity

of the boring/drilling location, or the water shall be diverted for a sufficient distance upstream and downstream of the drilling to avoid a drilling fluid spill into water. Permittee shall disclose this distance to CDFW with an explanation of why it is sufficient, prior to moving forward with any drilling activities.

2.55 Weather and Streamflow Limitations. Boring/drilling shall not occur 12 hours prior to any forecasted measurable rain fall at 50% chance or higher. If the storm does not increase stream flow, CDFW shall be notified and CDFW, at its discretion, may allow boring 24 hours after the storm. If stream flow increases due to rain run-off, the boring shall cease for the winter storm season or until the flows return to pre-storm levels.

2.56 Use Of Non-toxic Dye. Subject to approval by the Regional Water Quality Control Board, a non-toxic fluorescent water-soluble dye, such as the dye used to detect septic leaks, shall be added to the drilling muds to allow frac-outs to be seen in muddy waters. The dye shall be used in a concentration which allows the monitors to easily determine the source of the frac-out.

2.57 Instream Structures. Boring/drilling shall not occur adjacent to instream structures, such as pilings, because frac-outs tend to occur where the structures interface with the substrate. If instream structures are present, the bore/drill shall be deep enough to minimize frac-out potential.

2.58 Boring Inspectors. At least two certified monitors (inspectors) shall be retained by Permittee and on site during all boring/drilling operations near wet channels. The inspectors shall have the authority to make recommendations to the drilling operators and, if necessary, shut down operations if the operators are not following procedures which minimize frac-outs. The inspectors shall consult with CDFW before allowing the operator to resume boring operations.

2.59 Experienced Boring Contractors. The contractor shall submit to CDFW evidence that their boring contractors have at least two years' experience in conducting boring operations.

2.60 Pressure Level Monitoring. Pressure levels shall be monitored randomly by the monitors/inspectors and recorded. Pressure levels shall be set at a minimum level to prevent frac-outs.

2.61 Drilling Mud Material. All contractors shall use benign material in the drilling muds to avoid contamination of any water or habitat.

2.62 Frac-Out Contingency Plan. A frac-out contingency plan shall be submitted to CDFW and shall be approved prior to operations. The plan shall be on-site at all times and all contractors shall have pre-arranged duties in case of a frac-out.

2.63 Clean-up Equipment. Clean-up equipment shall be on site prior to the start of operations. This includes a Brady Barrel, (a 33-gallon metal barrel with both top and bottom removed). This is placed over a frac-out and the vacuum hose is inserted into the barrel to contain muds. A vacuum truck shall be always on site during drilling, along with shovels, straw bales, clear plastic drop cloths, brooms, and sandbags. This equipment shall be used to contain any frac-out or other spill.

2.64 Lack of Returns. A lack of returns may indicate a frac-out has occurred, and Permittee shall cease operations until the frac-out is found or the monitors have had enough time to search for the frac-out and have determined that the frac-out did not reach the surface. At that point, the drilling, (with CDFW's approval) may begin at low pressure levels until the frac-out is located, a second lack of returns occurs, or the project is completed.

2.65 Frac-Out. In case of a frac-out or lack of returns, all drilling shall cease, and all personal shall implement the clean-up contingency plan. Operations shall not resume until the frac-out is located, contained, and cleaned up. CDFW shall be notified on every frac-out immediately. Directional drilling shall not resume until approved by CDFW.

2.66 Continued Monitoring. Monitoring for frac-outs shall continue 48 hours on shallow drills, after all the drilling and reaming is completed even if there is no lack of returns.

Excavation, Fill, and Stabilization

2.67 Slope Stabilization. Areas of disturbed soils with slopes toward a stream or lake shall be stabilized to reduce erosion potential. Planting, seeding, and mulching are conditionally acceptable. Where suitable vegetation cannot reasonably be expected to become established, non-erodible materials, such as coconut fiber matting, shall be used for such stabilization. Any installation of non-erodible materials not described in the original Project description shall be coordinated with CDFW. Coordination may include the negotiation of additional Agreement provisions for this activity.

2.68 Spoil Sites. Permanent spoil storage sites shall not be located within 150 feet of a stream, where spoil can be washed back into the stream, or where it will cover aquatic or riparian vegetation. Temporary spoils created shall be removed from the stream at the end of each workday.

2.69 Rock Slope Protection. Un-grouted rock slope protection (RSP) and energy dissipater materials shall consist of clean rock, competent for the application, sized and properly installed to resist washout. RSP slopes shall be supported with competent boulders keyed into a footing trench with a depth sufficient to properly seat the footing course boulders and prevent instability (typically at least 1/3

diameter of footing course boulders). Voids between rocks shall be planted with riparian species native to the area.

2.70 Minimize Turbidity and Siltation. Permittee shall take precautions to minimize turbidity/siltation during construction and post-construction periods. Precautions shall include but are not limited to: pre-construction planning to identify site specific turbidity and siltation minimization measures and best management erosion control practices; best management erosion control practices during Project activity; and settling, filtering, or otherwise treating silty and turbid water prior to discharge into a stream or storm drain.

2.71 Maintain Sediment Barriers. Permittee shall maintain all installed sediment barrier(s) in good operating condition throughout the construction period. Maintenance includes, but is not limited to, removal of accumulated silt and/or replacement of damaged silt fencing, coir logs, coir rolls, and/or straw bale dikes. If the sediment barrier fails to retain sediment, Permittee shall employ corrective measures, and CDFW shall be notified, immediately. Materials used in the sediment barriers shall not pose an entanglement risk to fish/wildlife.

2.72 Best Management Practices. Permittee shall actively implement Best Management Practices (BMPs) to prevent erosion and the discharge of sediment and pollutants into streams during Project activities. BMPs shall be monitored and repaired if necessary to ensure maximum erosion, sediment, and pollution control. Permittee shall prohibit the use of erosion control materials potentially harmful to fish and wildlife species, such as mono-filament netting (erosion control matting) or similar material, within and adjacent to CDFW jurisdictional areas. All fiber rolls, straw waddles, and/or hay bales utilized within and adjacent to the Project site shall be free of non-native plant materials. Fiber rolls or erosion control mesh shall be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.

Exotic and Invasive Species

2.73 Invasive Species Education Program. Permittee shall conduct an Invasive Species Education Program for all persons working within the Project site prior to the commencement of any Project activities. The program shall consist of a presentation from a biologist that includes a discussion of the invasive species currently present within the Project site as well as those that may pose a threat to or have the potential to invade the Project site. The discussion shall include a physical description of each species and information regarding their habitat preferences, local and statewide distribution, modes of dispersal, and impacts. The program shall also include a discussion of BMPs to be implemented at the Project site to avoid the introduction and spread of invasive species into and out of the

Project site. Permittee shall provide Interpretation for non-English speaking workers, and the same instruction shall be included for any new workers prior to their performing any work within the Project site. The program shall be repeated annually for Projects extending more than one year. Copies of program materials shall be maintained at the Project site for workers to reference as needed.

2.74 Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site to another. Prevention BMPs and guidelines for invasive plants can be found on the California Invasive Plant Council's website at: http://www.cal-ipc.org/ip/prevention/index.php.

2.75 Inspection of Project Equipment. Permittee shall inspect all vehicles, tools, boots, and other Project-related equipment and remove all visible soil/mud, plant materials, and animal remnants prior to entering and exiting the Project site and/or between each use in different streambeds.

2.76 Notification of Invasive Species. Permittee shall notify CDFW immediately if an invasive species not previously known to occur within the Project site is discovered during Project activities by submitting a completed Suspect Invasive Species Report (available online at: https://wildlife.ca.gov/Conservation/Invasives/Report) and photos to the Invasive Species Program by email at: invasives@wildlife.ca.gov. Notification may also be provided by calling (866) 440-9530. Upon receiving notification, CDFW will provide Permittee with guidance for further action as appropriate to the species.

2.77 Herbicide Use. All herbicides, surfactants, and other pesticides utilized within or adjacent to CDFW jurisdictional areas and other sensitive aquatic habitat areas shall be registered for aquatic use by the California Department of Pesticide Regulation (CDPR).

2.78 Herbicide Sprays in Wind. Permittee shall only utilize herbicide sprays via aerial or ground application when wind speed measures less than 10 mph.

2.79 Herbicide Spray Dye. Permittee shall ensure all herbicide sprays utilized within and adjacent to streams and sensitive habitat areas contain a dye (registered for aquatic use by CDPR) to prevent overspray.

3. Restoration and Compensatory Mitigation

Permittee shall compensate for adverse impacts to 0.53 acre of permanent impacts and 0.24 acre of temporary impacts to stream bed, bank, and channel identified above that cannot be avoided or minimized. Permittee shall provide for mitigation for permanent and temporary impacts through measure 3.1 and measure 3.2 and each measure

thereafter.

3.1 Habitat Restoration- On-site (On-site Temporary Restoration). To compensate for temporary impacts to 0.24 acre of California Sycamore- Coast Live Oak Riparian Woodland habitat, Permittee shall restore no less than 0.24 acre of in-kind streambed and associated habitat on site.

3.1.1 Habitat Restoration Plan (HRP; Temporary Impacts). Permittee shall develop and submit to CDFW for approval **within 4 months of starting Project activities** a Habitat Restoration Plan (HRP), prepared by a biologist familiar with restoration of native plants. Restoration implementation involves methods for restoring, maintaining (e.g., weeding replacement planting, supplemental water) and monitoring. This plan shall include and is not limited to (a) survey information of a reference site; (b) description of impacted areas and how it will be returned to original contours; (c) list and number of tree species being removed from the project site, if applicable; (d) planting location, methodology, and schedule; (e) list of native plant (tree, shrub, and grass) species to be used, container sizes (no more than one gallon), and seeding rates; (f) description of the irrigation methodology, if necessary; (g) measures to control exotic vegetation on site; (h) schedule that outlines all foreseeable activities necessary (i) monitoring and reporting procedures, which includes primary monitoring surveys to be conducted in Spring and Fall with an annual quantitative survey to be conducted to determine the success of restoration efforts (survival, cover, and growth of plants); (j) sample of the data collection sheet; (k) specific success criteria based on a reference site; and (l) corrective actions to be taken when restoration activities do not meet the proposed success criteria. The HRP shall also include the following:

3.1.1.1 Habitat Restoration Manager. Permittee shall identify a proposed Habitat Restoration Manager. Permittee shall notify CDFW of any subsequent changes in the Habitat Restoration Manager within 30 days of the change.

3.1.1.2 Restoration Specialist. The HRP shall be prepared by person(s) with expertise in southern California ecosystems and native plant re-vegetation techniques (Restoration Specialist). Planting, maintenance, monitoring, and reporting activities shall be overseen by the Restoration Specialist familiar with restoration of native plants.

3.1.1.3 Site Description. The HRP shall include a description of the physical conditions and vegetation communities including a map and GIS shapefiles. Photo-documentation of restored areas shall be provided before and after restoration.

3.1.1.4 Native Plant Sources. Plant material for revegetation shall be derived from cuttings, materials salvaged from disturbed areas, and/or seeds obtained from randomly selected native trees and shrubs occurring locally within the same drainages. Any replacement tree/shrub stock, if used, which cannot be grown

from cuttings or seeds, shall be obtained from a native plant nursery, be ant-free, and shall not be inoculated to prevent heart rot.

3.1.1.5 Installment/Establishment and Monitoring for Success. Permittee shall differentiate between installment/establishment and monitoring for success of the restoration sites. Installment/establishment shall include activities such as planting, hydro-seeding, weeding (including grow-kill cycles), irrigating, plant replacement, and any other maintenance activities required to ensure establishment of the restoration sites. Permittee shall monitor the activities required to complete installation and establishment of the restoration sites and shall submit annual monitoring reports of these activities. Official monitoring for success shall not begin until all irrigation, weeding, and any other maintenance activities are no longer required.

3.1.1.6 Maintenance Activities. The HRP shall include a description of maintenance operations with particular emphasis on invasive species control and watering methods and schedules; details on any irrigation to be used, if applicable, that includes method of watering; sprinkler placement, if applicable; and timing/schedule; irrigation may only be used to help the plants become established during the first three years following planting. Watering/irrigation of the site shall be discontinued at least two years prior to completion of the monitoring period.

3.1.1.7 Corrective Actions. The HRP shall include a description of corrective actions to be taken if restoration measures do not meet the proposed success criteria or targets.

3.1.1.8 Success Criteria. The HRP shall identify the success criteria for the habitat restoration site. The reference site shall be approved by CDFW. The success criteria shall include percent relative and absolute cover (invasive and native vegetation), species diversity, abundance, and any other measures of success deemed appropriate by CDFW. Permittee shall be responsible for any cost incurred during the restoration/mitigation or in subsequent corrective measures.

3.1.2 Mitigation Success. After the fifth monitoring year, if the site has met the success criteria outlined in the HRP, CDFW may request a site visit to determine if the mitigation portion of the Agreement is deemed complete. The site should be free of trash and any irrigation infrastructure shall be removed if it was used (unless there is an acceptable justification for leaving the irrigation system in place as approved by CDFW.

3.1.3 Contingency Measures. If the survival and cover requirements have not been met as established in the HRP (Refer to Measure 3.1.1 above), the Permittee shall follow contingency measures, including but not limited to, performing modifications to the existing habitat, creation of new habitat on or off site, or purchase of mitigation credits from a mitigation bank. Any contingency actions

will be determined in coordination with CDFW. If Permittee proposes to meet the success criteria through modifications to the existing habitat or creation of additional habitat, Permittee shall be responsible for maintaining and monitoring these areas with the same survival and growth requirements for five years after planting, or until CDFW deems the sites successful.

3.2 Permittee Responsible Mitigation- Off-site (Mitigation Site). Permittee shall compensate for permanent impacts to a total of 0.53 acre of stream habitat (0.35 acre California sycamore-coast live oak riparian woodland habitat, 0.01 acre intermittent stream, 0.15 acre arroyo willow riparian thicket habitat, and 0.02 coastal marsh habitat with the removal of no more than 39 trees identified in Table 2) through the acquisition (if necessary), and perpetual conservation and management of a "Mitigation Site", or several mitigation sites, containing no less than 1.60 acres of stream habitat broken down as follows:

- 1.07 acres California sycamore-coast live oak riparian woodland and intermittent stream habitat
- 0.45 acre arroyo willow riparian thicket habitat
- 0.08 acre coastal marsh habitat
- 117 trees

The "Mitigation Site" or mitigation sites shall be within the San Jose Creek watershed or within Santa Barbara County. Trees shall be replaced in accordance with the following amounts provided in Table 5 below.

Table 5. Tree Mitigation Amounts

Scientific Name	Common Name	Number of Trees Removed	Number of Replacement Trees
**Eucalyptus cladocalyx* and *E. globulus*	sugar gum and blue gum eucalyptus	5	15
Juglans californica	southern California black walnut	2	6
Platanus racemosa	western sycamore	8	24
Populus trichocarpa	black cottonwood	12	36
Quercus agrifolia	coast live oak	3	9
Salix lasiolepis	arroyo willow	9	27
Umbellularia californica	California bay	0	0
Total		**39**	**117**

*Non-native species will be replaced with native species

Permittee shall prepare, or fund the preparation of, a Habitat Mitigation and Monitoring Plan (HMMP; measure 3.2.5) and a Long-Term Management Plan (LTMP; measure 3.2.6) designed to sustain or surpass the habitat quality of the Mitigation Site(s) in perpetuity. Permittee shall also establish long-term management funding (measure 3.2.7 through measure 3.2.12). Permanent protection and funding for perpetual management of the Mitigation Site(s) must be complete **prior to initiation of Project activities, or within 18 months of starting Project activities if Security is provided** pursuant to measure 3.3 below for all uncompleted obligations.

3.2.1 Mitigation Site Acquisition and Protection. Permittee shall obtain written approval from CDFW for the proposed Mitigation Site(s) with a minimum of 1.60 acres of off-site streambed and stream-associated habitat. Permittee shall submit a proposed Mitigation Site(s), including pertinent biological resources information (e.g., delineation, hydrological assessment, species occurrences) and a preliminary title report, for CDFW review and approval **no later than five months prior to the start of Project activities OR four months following start of Project activities if Security is provided.**

3.2.2 Mitigation Site Conservation Easement. **After CDFW approval of the Mitigation Site(s) (measure 3.2.1) and no later than four months prior to the start of Project activities OR six months following start of Project activities if Security is provided,** Permittee shall provide to CDFW, for review and approval, a draft Conservation Easement (CE) prepared using a CDFW-provided CE template, a preliminary title report, a mineral risk assessment, and a Phase I environmental assessment. Permittee shall also provide the necessary documents specified in the most current version at time of document submittal of the *CDFW Habitat Management Land Acquisition Package Checklist for Third Party Beneficiary (TPB) Project Applicants* or a revised version to be provided by CDFW. All documents conveying the Mitigation Site(s) and all conditions of title are subject to the review and approval of CDFW prior to recordation of the CE. Permittee shall ensure the preservation and long-term management of the CDFW-approved 1.60 acres of streambed and stream-associated habitat within the Mitigation Site(s) through recordation of a CDFW-approved CE(s). Permittee shall record a CE approved by CDFW with an entity, to be approved by CDFW in its sole discretion, acting as grantee for the CE. CDFW shall be expressly named in the CE as a third-party beneficiary. Permittee shall identify separate entities to fulfill the grantee and land manager roles and **shall not identify the same entity to fulfill both roles.** The CE shall expressly require implementation of the LTMP by the grantor, and the land manager as authorized by the grantor and landowner and shall expressly require the grantee to monitor implementation of the LTMP. Permittee shall record the CE after CDFW approval of the CE and all associated documents **Prior to the start of Project activities OR within 18**

months following the start of Project activities if Security is provided. Permittee shall be responsible for all costs associated with the CE, including recording, CE monitoring, and long-term management costs.

3.2.3 Mitigation Site Land Manager. **After CDFW approval of the Mitigation Site(s) (Measure 3.2.1) and no later than four months prior to the start of Project activities OR six months following start of Project activities if Security is provided,** Permittee shall obtain CDFW approval of a land manager entity to manage the Mitigation Site. Permittee shall identify separate entities to fulfill the grantee and land manager roles and shall not identify the same entity to fulfill both roles. Permittee shall also obtain CDFW approval of an interim Mitigation Site land manager if they are different than the long-term Mitigation Site manager. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW, for review and approval, of any subsequent changes with the land manager within 30 days of the change.

3.2.4 Start-Up Activities. Permittee shall provide for the implementation of start-up activities, including the initial site protection of the CDFW-approved Mitigation Site(s). Start-up activities include, at a minimum: 1) preparing both an HMMP (Measure 3.2.5) and an LTMP (Measure 3.2.6) for CDFW approval, 2) conducting baseline biological assessment and land survey report during the first growing season, 3) developing and transferring to the Geographic Information Systems (GIS) data if applicable, 4) establishing initial fencing (if necessary), 5) conducting initial removal of litter and debris, and 6) installing signage.

3.2.5 Habitat Mitigation and Monitoring Plan. **After CDFW approval of the Mitigation Site(s) (Measure 3.2.1) and no later than four months prior to the start of Project activities OR six months following start of Project activities if Security is provided,** Permittee shall submit to CDFW for review and written approval an HMMP. At a minimum, the HMMP shall include the following:

3.2.5.1 Restoration Specialist. The HMMP shall be prepared by person(s) with expertise in southern California ecosystems and native plant re-vegetation techniques (Restoration Specialist). Planting, maintenance, monitoring, and reporting activities shall be overseen by the Restoration Specialist familiar with restoration of native plants.

3.2.5.2 Site Description. The HMMP shall include a description of the physical conditions and vegetation communities including a map and GIS shapefiles. Photo-documentation of restored areas shall be provided before and after restoration.

3.2.5.3 Native Plant Sources. Plant material for revegetation shall be derived from cuttings, materials salvaged from disturbed areas, and/or seeds obtained from randomly selected native trees and shrubs occurring locally within the same

drainages. Any replacement tree/shrub stock, if used, which cannot be grown from cuttings or seeds, shall be obtained from a native plant nursery, be ant-free, and shall not be inoculated to prevent heart rot.

3.2.5.4 Installment/Establishment and Monitoring for Success. Permittee shall differentiate between installment/establishment and monitoring for success of the restoration sites. Installment/establishment shall include activities such as planting, hydro-seeding, weeding (including grow-kill cycles), irrigating, plant replacement, and any other maintenance activities required to ensure establishment of the restoration sites. Permittee shall monitor the activities required to complete installation and establishment of the restoration sites and shall submit annual monitoring reports of these activities. Official monitoring for success shall not begin until all irrigation, weeding, and any other maintenance activities are no longer required.

3.2.5.5 Maintenance Activities. The HMMP shall include a description of maintenance operations with particular emphasis on invasive species control and watering methods and schedules; details on any irrigation to be used, if applicable, that includes method of watering; sprinkler placement, if applicable; and timing/schedule; irrigation may only be used to help the plants become established during the first three years following planting. Watering/irrigation of the site shall be discontinued at least two years prior to completion of the monitoring period.

3.2.5.6 Corrective Actions. The HMMP shall include a description of corrective actions to be taken if restoration measures do not meet the proposed success criteria or targets.

3.2.5.7 Success Criteria. The HMMP shall identify the success criteria for the habitat restoration site. The reference site shall be approved by CDFW. The success criteria shall include percent relative and absolute cover (invasive and native vegetation), species diversity, abundance, and any other measures of success deemed appropriate by CDFW. Permittee shall be responsible for any cost incurred during the restoration/mitigation or in subsequent corrective measures.

3.2.5.8 Sampling Techniques. The sampling techniques (e.g., quadrats, transects, or relevé) to be used to collect quantitative/qualitative data (e.g., vegetation relative/absolute cover, density, diversity indices, recruitment, survivorship, etc.) for baseline conditions and to establish and measure success criteria.

3.2.5.9 Mitigation Success. After the fifth monitoring year, if the site has met the success criteria outlined in the HMMP, CDFW may request a site visit to determine if the mitigation portion of the Agreement is deemed complete. The site should be free of trash and any irrigation infrastructure shall be removed if it was used (unless there is an acceptable justification for leaving the irrigation

system in place as approved by CDFW.

3.2.5.10 Contingency Measures. If the survival and cover requirements have not been met as established in the HMMP (Refer to Measure 3.2.5.7 above), the Permittee shall follow contingency measures, including but not limited to, performing modifications to the existing habitat, creation of new habitat on or off site, or purchase of mitigation credits from a mitigation bank. Any contingency actions will be determined in coordination with CDFW. If Permittee proposes to meet the success criteria through modifications to the existing habitat or creation of additional habitat, Permittee shall be responsible for maintaining and monitoring these areas with the same survival and growth requirements for five years after planting, or until CDFW deems the sites successful.

3.2.6 Mitigation Site Long-Term Management Plan. **After CDFW approval of the Mitigation Site(s) (Measure 3.2.1) and no later than three months prior to the start of Project activities OR seven months following start of Project activities if Security is provided,** Permittee shall provide an LTMP to CDFW for review and written approval. The LTMP shall be implemented in perpetuity and shall be designed to sustain or surpass the habitat quality of the Mitigation Site(s) upon achieving HMMP success criteria as approved by CDFW in writing. At a minimum, the LTMP shall identify: 1) a description of the physical conditions of the Mitigation Site(s) expected upon achieving HMMP success criteria, including water resources and habitat types, and a map that identifies the location of the site(s); 2) goals related to sustaining habitat quality, wildlife usage, and overall function of the Mitigation Site; 3) specific tasks and management strategies proposed to meet those goals, including but not limited to fencing, invasive species management, trash and trespass control, and resource monitoring using a monitoring and management schedule, adaptive management plans, and strategies to address foreseeable site disturbances (e.g., dumping, wildfires, unauthorized recreational activities, etc.), and 4) maintenance of signage and fencing. Permittee shall consult with CDFW for LTMP requirements and for an appropriate LTMP template prior to preparing the draft LTMP. A CDFW-approved conservation entity shall be responsible for implementing the LTMP and shall submit a Management Report every 5 years documenting, at a minimum: 1) management activities completed within the previous five-year term, including: (a) any remedial measures completed, (b) details of non-native and invasive species management including: (i) species and location where they were treated and/or removed, (ii) the amount and frequency of removal, and (iii) the techniques used, (c) fencing information, (d) resource monitoring, adaptive management strategies developed and how they were implemented, and (d) enforcement activity necessary; 2) an assessment of overall habitat quality within the Mitigation Site(s), including: (a) any changes to native and non-native vegetation cover, (b) any shifts in habitat type, (c) any loss of habitat cover, (d) any change in water resources, and (e) any new invasive species observed; and 3) an evaluation of the success or failure of management strategies implemented

and any changes to management strategies proposed in response to the successes or failures. The Management Report shall include photos documenting the management activities.

3.2.7 Mitigation Site Endowment Fund. Permittee shall ensure that the Mitigation Site is perpetually managed, maintained, and monitored by the land manager as described in this Agreement, the CE, and the LTMP approved by CDFW. Permittee shall provide long-term management funding for the perpetual management of the Mitigation Site by establishing a separate long-term management fund (Endowment) for the site. The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, monitoring, and other activities on the Mitigation Site consistent with the management plan(s) required by Measure 3.2.8. Endowment as used in this Agreement shall refer to the Endowment Deposit Amount and all interest, dividends, other earnings, additions, and appreciation thereon. The Endowment shall be governed by this Agreement, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

After the interim management period, Permittee shall ensure that the designated land manager implements the management and monitoring of the Mitigation Site according to the LTMP. The long-term land manager shall be obligated to manage and monitor the Mitigation Site(s) in perpetuity to preserve their conservation values in accordance with this Agreement, the CE, and the LTMP. Such activities shall be funded through the Endowment.

3.2.8 Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be an entity qualified pursuant to Government Code sections 65965-65968, as amended, and approved in writing by CDFW in its sole discretion. Permittee shall submit to CDFW a written proposal for an Endowment Manager along with a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968€. CDFW shall notify Permittee in writing of its approval or disapproval of the proposed Endowment Manager. If CDFW does not approve the proposed Endowment Manager, it shall provide Permittee with a written explanation of the reasons for its disapproval.

3.2.9 Endowment Deposit Amount. After obtaining CDFW written approval of the Mitigation Sites, LTMP, and Endowment Manager, Permittee shall prepare, in coordination with the land manager, a Long-Term Management Endowment Property Record Analysis (PAR) (or PAR-equivalent analysis) to calculate the amount of funding necessary to ensure the long-term management of the Mitigation Site (Endowment Deposit Amount) consistent with the LTMP. The Permittee shall submit to CDFW for review and approval the results of the Long-Term Management Endowment PAR before transferring funds to the Endowment Manager and **no later than three months prior to the start of Project activities OR seven months following start of Project activities if Security is**

provided.

3.2.10 Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the Long-Term Management Endowment PAR and adjust for any additional administrative, periodic, or annual fee.

3.2.11 Endowment Buffers/Assumptions. Permittee shall include in the Long-Term Management Endowment PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:

3.2.11.1 10 Percent Contingency. A 15-percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

3.2.11.2 Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.

3.2.11.3 Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.

3.2.12 Transfer Long-term Endowment Funds. Permittee shall transfer the Long-Term Endowment Funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above **prior to the start of Project activities OR within 18 months following start of Project activities if Security is provided**. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this Agreement, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

3.3 Security. If permanent protection and funding for perpetual management of compensatory habitat is not complete prior to the initiation of Project activities, Permittee shall provide financial security in the form of a Letter of Credit (LOC) (Exhibit I), or other form of security approved by CDFW, for an amount sufficient for CDFW or its contractors to complete land acquisition, property enhancement/restoration, initial management and site protection, and perpetual management and monitoring of the 1.60-acre Mitigation Site(s). The LOC shall be submitted to CDFW for approval and shall be executed no later than 30 days prior to initiation of Project activities.

3.3.1 Property Analysis Record for Establishment of Mitigation Lands. Prior to execution of security, Permittee shall prepare a Property Analysis Record (PAR)

or PAR-equivalent analysis negotiated with the approved land manager to calculate the amount of funding necessary to ensure land acquisition, planning and engineering, construction, monitoring, and legal fees for the Mitigation Site(s) subject to this Agreement.

3.3.2 Draft Copy of LOC. The Permittee shall provide a draft copy of the LOC, or other form of security approved by CDFW, to CDFW at the address listed below for review and approval no later than 60 days prior to initiation of Project activities and **prior to execution of security.** The LOC shall not be executed without CDFW's prior approval.

3.3.3 Expiration of LOC. In the event that the LOC will expire before the mitigation obligations have been met, the Permittee shall be responsible for providing CDFW a new LOC to replace the existing LOC **at least sixty (60) days prior to the expiration date.**

3.3.4 Execution of LOC. If CDFW will hold a cash security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Exhibit J). Otherwise, upon execution of the LOC, or other form of security approved by CDFW, the Permittee shall provide the original to the address listed on the LOC template, and one copy of the executed document to CDFW at the address listed below.

3.3.5 CDFW Draw on Security. The LOC, or other form of security approved by CDFW, shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to complete the compensatory mitigation measures of this Agreement.

4. Reporting Measures

Permittee shall meet each reporting requirement described below.

4.1 Notifications, Reporting, and Communications. All notifications, plans, survey and monitoring reports and any other required communication between the Permittee and CDFW shall be submitted electronically via EPIMS and emailed to EPIMS.R5@wildlife.ca.gov Reference # SBA-41011-R5 and CC sarah.rains@wildlife.ca.gov.

4.2 Final Construction Report. Permittee shall provide a final construction report to CDFW no later than thirty (30) days after the Project is fully completed. The construction report at a minimum shall contain pre-Project photographs, a map showing total amount of area impacted post-Project (including staging and access areas), post-Project photographs, and biological survey notes (including construction monitoring).

4.3 Format of Reports. All reports shall be submitted to CDFW electronically and shall include geographic information system (GIS) shapefiles, along with the appropriate metadata, of the Project area. For more details on creating shapefiles, please visit http://www.esri.com/library/whitepapers/pdfs/shapefile.pdf. Electronic versions of reports shall be submitted through EPIMS. Click or paste this link in your browser to be routed to EPIMS: https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS.

4.4 Project Initiation and Completion. Permittee shall notify CDFW of Project initiation and completion as described in measure 1.5 of this Agreement.

4.5 Submit Biologist Information. Permittee shall submit biologist information to CDFW as described in measure 2.8 of this Agreement.

4.6 Submit Wildlife Records. Permittee shall submit records of all wildlife captured and relocated as described in measure 2.13 of this Agreement.

4.7 Mortality Reporting. Permittee shall report any mortalities as described in Measure 2.15 of this Agreement.

4.8 Notification to CNDDB. Permittee shall submit CNDDB forms to CNDDB and CDFW as described in measure 2.16 of this Agreement.

4.9 Submit Pre-Work General Biological Survey Results. Permittee shall submit the results of pre-work general biological surveys as described in measure 2.17 of this Agreement.

4.10 Report Work in Southern California Steelhead Stream. Permittee shall report proposed work in a Southern California Steelhead Stream as described in measure 2.21 of this Agreement.

4.11 Submit California Red-Legged Frog and Coast Range Newt Survey Results. Permittee shall submit results of surveys for California Red-Legged Frog and Coast Range Newt as described in measure 2.22 of this Agreement.

4.12 Submit Special Status Reptile Species Survey Result. Permittee shall submit results of special status reptile species surveys as described in measure 2.24 of this Agreement.

4.13 Submit Nesting Bird Survey Results. Permittee shall submit all survey results, reporting, and Avian Biologist information as described in measure 2.26 through 2.26.7 of this Agreement.

4.14 Submit Bat Survey Results. Permittee shall submit result of bat surveys conducted as described in measure 2.27 of this Agreement.

4.15 Submit San Diego Desert Woodrat Survey Results. Permittee shall submit results of San Diego Desert Woodrat surveys conducted as described in measure 2.28 of this Agreement.

4.16 Submit Survey Results for Special Status Plants. Permittee shall submit survey results for special status plants as described in measure 2.36 of this Agreement.

4.17 Submit Boring Contractor Experience. Permittee shall submit evidence of experienced boring contractors as described in measure 2.59 of this Agreement.

4.18 Submit a Frac-Out Contingency Plan. Permittee shall submit a frac-out contingency plan as described in measure 2.62 of this Agreement.

4.19 Submit a Habitat Restoration Plan. Permittee shall submit an HRP for temporary impacts as described in measure 3.1 and all associated measures to measure 3.1 of this Agreement.

4.20 Submit a Habitat Mitigation and Monitoring Plan, Long-Term Management Plan, Funding for Long-Term Management, a draft Conservation Easement. Permittee shall submit an HMMP, an LTMP, long-term management funding, and a raft CE as described in measure 3.2 and all associated measures to 3.2 of this Agreement.

4.21 Submit Financial Security. Permittee shall provide a form of financial security to CDFW as described in measure 3.3 and all associated measures to measure 3.3 of this Agreement.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be submitted through EPIMS as instructed by CDFW.

To Permittee:

City of Goleta
Teresa Lopes
EPIMS-SBA-41011-R5
San Jose Creek Multipurpose Path Project
tlopes@cityofgoleta.org

To CDFW:

Department of Fish and Wildlife
South Coast Region 5
EPIMS-SBA-41011-R5
San Jose Creek Multipurpose Path Project
Epims.R5@wildlife.ca.gov

LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the Project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require Permittee to proceed with the Project. The decision to proceed with the Project is Permittee's alone.

SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

ENFORCEMENT

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with, or obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the Project or an activity related to it. For example, if the Project causes take of a species listed as threatened or endangered under the Endangered Species Act (ESA), such take will be unlawful under the ESA absent a permit or other form of authorization from the U.S. Fish and Wildlife Service or National Marine Fisheries Service.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the Fish and Game Code including, but not limited to, Fish and Game Code sections 2050 *et seq*. (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and Permittee. To request an amendment, Permittee shall log into EPIMS and submit to CDFW a completed CDFW "Amendment & Extension" form. Permittee shall include with the completed form, payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall log into EPIMS and submit to CDFW a completed CDFW "Amendment & Extension" form.

Permittee shall include with the completed form, payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall log into EPIMS and submit to CDFW a completed CDFW "Amendment & Extension' form. Permittee shall include with the completed form, payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with Fish and Game Code section 1605, subdivisions (b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the Project the Agreement covers (Fish & G. Code § 1605, subd. (f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after Permittee's signature; 2) after CDFW complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable Fish and Game Code section 711.4 filing fee listed at https://www.wildlife.ca.gov/Conservation/CEQA/Fees.

TERM

This Agreement shall expire on December 31, 2028, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as Fish and Game Code section 1605 (a)(2) requires.

EXHIBITS

The documents listed below are included as exhibits to the Agreement and incorporated herein by reference.

A. Exhibit A: Fig 2a-Project Location North Segment

B. Exhibit B: Fig 2b- Project Location Southern Segment

C. Exhibit C: Northern Segment Project Activities Table

D. Exhibit D: Northen Segment Activities Location

E. Exhibit E: Southern Segment Activities Table

F. Exhibit F: Southern Segment Activities Locations

G. Exhibit G: Trees Removed with Individual DBH's

H. Exhibit H: Draft Mitigation Plan

I. Exhibit I: Letter of Credit

J. Exhibit J: Mitigation Payment Transmittal Form

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

AUTHORIZATION

This Agreement authorizes only the Project described herein. If Permittee begins or completes a Project different from the Project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with FGC section 1602.

CONCURRENCE

Through the electronic signature by the permittee or permittee's representative as evidenced by the attached concurrence from CDFW's Environmental Permit Information Management System (EPIMS), the permittee accepts and agrees to comply with all provisions contained herein.

The EPIMS concurrence page containing electronic signatures must be attached to this agreement to be valid.

ATTACHMENT 2

CDFW Letter of Credit Template (Draft)

[***Financial institution letterhead***]

IRREVOCABLE STANDBY LETTER OF CREDIT
NO. [***number issued by financial institution***]

Issue Date: [***date***]

Beneficiary:

California Department of Fish and Wildlife
Habitat Conservation Planning Branch
960 Riverside Parkway, Suite 90
West Sacramento, CA 95605
Attn: HCPB Mitigation Funds

Amount: U.S. $619,017

Expiry: [***Date***] at our counters

Dear Sirs:

1. At the request and on the instruction of our customer, City of Goleta] ("Applicant"), we, [***name of financial institution***] ("Issuer"), hereby establish in favor of the beneficiary, the California Department of Fish and Wildlife ("CDFW"), this irrevocable standby letter of credit ("Credit") in the principal sum of U.S. $619,017 ("Principal Sum").

2. We are informed this Credit is and has been established for the benefit of CDFW pursuant to the terms of the Lake and Streambed Alteration (LSA) agreement (No EPIMS-SBA-41011-R5) for the San Jose Creek Multipurpose Path Project issued by CDFW to the Applicant on January 26, 2024 (No. EPIMS-SBA-41011-R5) ("Permit").

3. We are further informed that pursuant to the Permit, the Applicant has agreed to complete certain mitigation requirements, as set forth in conditions 3.3, 3.3.1, 3.3.2, 3.3.3, 3.3.4, and 3.3.5 in the Permit ("Mitigation Requirements").

4. We are finally informed that this Credit is intended by CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.

5. CDFW shall be entitled to draw upon this Credit only by presentation of a duly executed Certificate for Drawing ("Certificate") in the same form as Attachment A, which is attached hereto, at our office located at [***name and address of financial institution***].

6. The Certificate shall be completed and signed by an Authorized Representative of CDFW as defined in paragraph 12 below. Presentation by CDFW of a completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.

7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.

8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.

9. Upon being notified that the demand for payment was not effected in conformity with the Credit, CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.

10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.

11. This Credit will be cancelled or the Principal Sum will be reduced upon receipt by us of Certificate of Cancellation/Reduction, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of CDFW, as defined in paragraph 12 below.

12. An Authorized Representative shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Manager of CDFW's Habitat Conservation Planning Branch.

13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.

14. Communications with respect to this Credit shall be in writing and addressed to us at [***name and address of financial institution***], specifically referring upon

such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, 960 Riverside Parkway, Suite 90, West Sacramento, CA 95605, Attn: HCPB Mitigation Funds; and (ii) for the Applicant: City of Goleta, 130 Cremona Drive, Goleta CA 93117

15. This Credit may not be transferred.

16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the laws of the State of California.

17. This Credit shall, if not canceled, expire on [***expiration date***], or any extended expiration date when CDFW deems the mitigation portion of the Permit is complete.

18. We hereby agree with CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.

19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

[***Name of financial institution***]

By: _____
Name: _____
Title: _____
Telephone: _____

ATTACHMENT A

CERTIFICATE FOR DRAWING

[***CDFW Letterhead***]

[***Date***]

[***Name and address of financial institution***]

Re: Irrevocable Standby Letter of Credit No. [***number issued by financial institution***]

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in paragraph 12 in the above-referenced irrevocable standby letter of credit ("Credit"), hereby certifies to the Issuer that:

1. [***Insert one of the following statements:*** "In the opinion of CDFW, the Applicant has failed to complete the Mitigation Requirements referenced in paragraph 3 of the Credit." ***or*** "As set forth in paragraph 13, the Issuer has informed CDFW that the Credit will not be extended and the Applicant has not provided CDFW with an equivalent security approved by CDFW to replace the Credit."]

2. The undersigned is authorized under the terms of the Credit to present this Certificate as the sole means of demanding payment on the Credit.

3. CDFW is therefore making a drawing under the Credit in amount of U.S. $_____.

4. The amount demanded does not exceed the Principal Sum of the Credit.

Therefore, CDFW has executed and delivered this Certificate as of this ___day of [***month***], [***year***].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

_____
[***Insert one of the following:*** "Director" ***or*** "General Counsel" ***or*** "Regional Manager, [***Name of Regional Office***]" ***or*** "Branch Manager, Habitat Conservation Planning Branch"]

ATTACHMENT B

CERTIFICATE FOR CANCELLATION/REDUCTION

[***CDFW Letterhead***]

[***Date***]

[***Name and address of financial institution***]

Re: Irrevocable Standby Letter of Credit No. [***number issued by financial institution***]

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in the paragraph 12 in the above-referenced irrevocable standby letter of credit ("Credit"), hereby certifies to the Issuer that:

1. [***Insert one of the following statements:*** "The Applicant has presented documentary evidence of full compliance with the Mitigation Requirements referenced in paragraph 3 of the Credit." ***or*** "The Applicant has presented documentary evidence of compliance with the following Mitigation Requirement[(***s***)] referenced in paragraph 3 of the Credit: [***insert brief description of requirement(s) or requirement number(s) completed***]." ***or*** "The Applicant has provided CDFW with an equivalent security approved by CDFW to replace the Credit."]

2. [***Insert one of the following statements:*** "CDFW therefore requests the cancellation of the Credit." ***or*** "CDFW therefore requests a reduction in the Principal Sum in the amount of $_____, thereby making the new Principal Sum $_____."]

Therefore, CDFW has executed and delivered this certificate as of this ____ day of [***month***], [***year***].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

_____

[***Insert one of the following:*** "Director" ***or*** "General Counsel" ***or*** "Regional Manager, [***Name of Regional Office***]" ***or*** "Branch Manager, Habitat Conservation Planning Branch"]

ATTACHMENT 3

Mitigation Cost Analysis

Rincon Consultants, Inc.
319 East Carrillo Street, Suite 105
Santa Barbara, California 93101
805-319-4092

January 8, 2025
Project No: 24-16890

Michael Winnewisser, Project Manager
City of Goleta, Public Works
130 Cremona Drive
Goleta, California 93117
Via email: mwinnewisser@cityofgoleta.gov

Subject: REVISED Mitigation Cost Analysis for the San Jose Creek Multipurpose Pathway Project, Goleta, California

Dear Mr. Winnewisser,

Rincon Consultants, Inc. (Rincon) has completed a preliminary review of costs associated with implementing the Mitigation Plan for the City of Goleta's (City) San Jose Creek Multipurpose Path Project (Project). The associated Mitigation Plan[1] (Rincon 2023) outlines revegetation, maintenance, monitoring, and reporting actions to be conducted by the City in order to compensate for the permanent and temporary loss of jurisdictional streambeds as required by the Streambed Alteration Agreement (SAA; EPIMS-SBA-41011-R5) issued for the Project by the California Department of Fish and Wildlife (CDFW). This cost analysis supersedes that which was dated January 6, 2025 and submitted January 7, 2025.

The Project would permanently impact 0.53 acres and temporarily impact 0.24 acre of CDFW-jurisdictional streambeds. A total of 1.84 acres of CDFW-jurisditonal streambeds will be restored, comprised of 1.60 acres of mitigation for permanent impacts and 0.24 acres for temporary impacts. Per SAA Condition 3.3, 3.3.1, and 3.3.2, CDFW has requested that a cost analysis[2] for the construction and monitoring (including property enhancement/restoration and initial management and site protection)[3] of the mitigation sites prior to the execution of a Letter of Credit or other form of Security.

This document outlines the assumptions used to calculate the total amount needed for a Security to fund the revegetation efforts and yearly maintenance and monitoring costs associated with the Mitigation Plan over the installation period, the 2-year Maintenance Period, and the subsequent 5-year Monitoring Period. The cost analysis details used to calculate the Security is included as Attachment 1.

General Assumptions

- A total of 1.84 acres of CDFW-jurisditonal streambeds will be restored, comprised of 1.60 acres for mitigation for permanent impacts and 0.24 acres for temporary impacts.
- Based on impacts to individual riparian trees, 137 mitigation riparian trees are required. However, to ensure that all mitigation sites have proper woodland and riparian function, an additional 200 surplus trees will also be installed throughout the mitigation sites.

[1] The "Mitigation Plan" is herein defined as the Mitigation Plan prepared by Rincon in 2023 and the subsequent mitigation-related SAA Conditions that will also be applied to the Project.
[2] Based on a Property Record Analysis (PAR) or PAR-equivalent analysis.
[3] The City has already secured the mitigation sites as they own the parcels, which were approved by CDFW, and completed the site planning and engineering design as detailed in the Mitigation Plan. The City will prepare a draft Conservation Easement to ensure the preservation and long-term management of the mitigation sites, per SAA Condition 3.2.2. Based on direction from CDFW, this cost analysis does not include land acquisition, planning and engineering, legal fees, or perpetual management.

- Applicable mitigation sites:
  - On-site San Jose Creek along the northern segment of the Pathway – 0.62 acre
  - Off-site San Jose Creek at Jonny D. Wallis Park – 0.29 acre
  - Off-site Old San Jose Creek at Ekwill Street – 1.45 acres[4]
  - Off-site Devereux Creek at Ellwood Mesa – 0.08 acre
- The following restoration treatment types will be implemented:
  - Riparian woodland creation and re-establishment with planting and weeding
  - Riparian woodland enhancement areas with weeding
  - Salt marsh wetland enhancement with planting and weeding
- Costs are based on the methods for the installation, maintenance, monitoring, and reporting as detailed in the Mitigation Plan, in coordination with the cost estimates provided by the General Contractor and Restoration Biologist for the Project.
- Costs are based on the mitigation efforts that will occur during the following phases: 1) Installation Period (up to approximately three months); 2) 2-year Maintenance Period during which time plants will become established, maintenance will occur, and qualitative monitoring will occur, and limited reporting will occur; 3) the subsequent 5-year Monitoring and Reporting Period during which no maintenance will occur, qualitative/quantitative monitoring will occur, and reporting will occur. The estimated timeline is a total of up to 7.25 years.

Installation Assumptions

- The restoration installation approach will follow Section 2.1.1 of the Mitigation Plan; a summary of habitat to be restored is included in Table 7 and a summary of individual trees to be restored is included in Table 8.
- At the San Jose Creek along the Northern Segment of Pathway mitigation site, re-establishment of 0.37 acre of riparian woodland and enhancement of 0.25 acre of riparian woodland, for a total of 0.62 acre, will occur. Approximately 645 container plants will be installed, including up to 111 riparian trees. See Figure 8 and Table 9 of the Mitigation Plan for the restoration layout and planting palette details.
- At the San Jose Creek at Jonny D. Wallis Park mitigation site, re-establishment of 0.07 acre of riparian woodland and enhancement of 0.22 acre of riparian woodland, for a total of 0.29 acre, will occur. Approximately 139 container plants will be installed, including up to 41 riparian trees. See Figure 9, Table 10, and Table 11 of the Mitigation Plan for the restoration layout and planting palette details.
- At the Old San Jose Creek at Ekwill Street mitigation site, re-establishment of 0.58 acre of riparian woodland re-establishment and 0.87 acres of riparian enhancement for monarchs, for a total of 1.45 acres, will occur. Approximately 1,106 container plants will be installed, including up to 150 riparian trees. See Figure 10, Table 12, and Table 13 of the Mitigation Plan for the restoration layout and planting palette details.
- At the Devereux Creek at Ellwood Mesa mitigation site, enhancement of 0.08 acre of the transitional salt and freshwater marsh wetland will occur. Approximately 139 container plants will be installed. See Figure 11 and Table 14 of the Mitigation Plan for the restoration layout and planting palette details.

[4] Includes additional mitigation acreage that is not for CDFW-specific impacts.

- The large coast live oaks installed along the path along Calle Real as visual screening will be commercially available California natives. For the remainder and the majority of the plant stock, a qualified native nursery in coordination with the City-approved Restoration Biologist will gather plant stock, e.g., seeds and cuttings.
- Prior to plant installation, a qualified City-approved Restoration Contractor with oversight by the City-approved Restoration Biologist will remove non-native plants at the mitigation sites. Non-native plants will be removed primarily using hand removal methods, such as hand-held weed whips, loppers, and hoes. If hand removal is not feasible due to species resistance to hand removal methods, the size of the plant, or the number of plants, perennial invasive non-native species may be treated with herbicides per Section 2.1.4 of the Mitigation Plan.
- A temporary above ground irrigation system will be installed throughout the mitigation sites as feasible.

Maintenance Assumptions

- A qualified Restoration Contractor with oversight by the City-approved Restoration Biologist will conduct maintenance at the mitigation site for a period of 2 years during the 2-year Maintenance Period. After initial restoration installation has been completed, the 2-year Maintenance Period will commence, comprised of the City-established 90-day Plant Establishment Period (PEP) and the following 1.75 years of maintenance. For costing purposes, the costs associated with the 90-day PEP are included in the installation phase based on the City's contracting methodologies.
- The qualified Restoration Contractor will conduct routine activities to maintain the plantings in a healthy condition, control erosion of the mitigation site, and ensure performance criteria are being achieved, approximately five times per year. The Restoration Contractor will maintain the irrigation systems. Non-native plants will be removed primarily using hand removal methods, such as hand-held weed whips, loppers, and hoes. If hand removal is not feasible due to species resistance to hand removal methods, the size of the plant, or the number of plants, perennial invasive non-native species may be treated with herbicides. Herbicides may be used as described in Section 2.1.4 of the Mitigation Plan.

Monitoring Assumptions

- Monitoring will be conducted by the City-approved Restoration Biologist during the 2-year Maintenance Period and the subsequent 5-year Monitoring and Reporting Period.
- During the 2-year Maintenance Period, the mitigation sites will be qualitatively monitored by the City-approved Restoration Biologist monthly every other month during Year 1 and Year 2. See Section 2.4.1 of the Mitigation Plan for further details on data collected.
- During the 5-year Maintenance Period, the mitigation sites will be qualitatively monitored by the City-approved Restoration Biologist monthly every month during Year 1 and every other month during Year 2 through Year 5. See Section 2.4.1 of the Mitigation Plan for further details on data collected.
- During the 5-year Maintenance Period, the mitigation sites will be qualitatively monitored by the City-approved Restoration Biologist twice a year, once in spring (April/May) and one in fall (September/October). Fixed-line transects will be used. See Section 2.4.1 of the Mitigation Plan for further details on data collected.

- Upon completion of the 5-year Monitoring and Period, the City, in conjunction with the City-approved Restoration Biologist, will conduct a final inspection upon which the mitigation will be considered complete.

Reporting Assumptions

- The City-approved Restoration Biologist will prepare an As-Built Report following the complete installation of the mitigation sites. See Section 2.5 of the Mitigation Plan for further details on content.
- During the 2-year Maintenance Period, the City-approved Restoration Biologist will prepare email summary reports of monitoring efforts.
- During the 5-year Maintenance Period, the City-approved Restoration Biologist will prepare annual monitoring reports that will summarize qualitative and quantitative monitoring results and will be transmitted to the appropriate permitting agencies, for a total of five reports. See Section 2.5 of the Mitigation Plan for further details on content.

This document presents our preliminary assumptions and task list in support of the mitigation cost analysis requested by CDFW. Please let us know if you have questions or comments regarding this analysis.

Sincerely,
Rincon Consultants, Inc.

Julie Love
Senior Restoration Ecologist

Christopher Julian
Principal-in-Charge

Attachments

Attachment 1 Mitigation Cost Analysis Details

Attachment 1

Mitigation Cost Analysis Details

Mitigation Cost Analysis Details

Task	Responsible Party	Description	Cost	Contingency	Total Cost
Installation Period					
Installation Implementation	Restoration Contractor	Plant, erosion control BMP, and irrigation purchase and installation; 90-day Plant Establishment Period (PEP), including 3 monthly maintenance visits	$189,000	10%	$207,900
Installation Oversight	Restoration Biologist/ Manager	Restoration management; As-Built Report; 90-day PEP monitoring and reporting	$64,369	10%	$70,806
Subtotal			**$253,369**	**–**	**$278,706**
2-year Maintenance Period					
2 years of Maintenance	Restoration Contractor	Weed removal visits (5 per year)	$131,100	10%	$144,210
		Replacement planting (2 total)	$11,040	10%	$12,144
		On-site meetings to check irrigation, site conditions, and ensure performance criteria are met (1 per year)	$26,220	10%	$28,842
		Replacement plant costs (20% of original cost)	$5,741	10%	$6,315
2 years of Monitoring	Restoration Biologist/ Manager	Qualitative Monitoring Visits (18 total at 12 in Year 1 and 6 in Year 2)	$36,000	10%	$39,600
Subtotal			**$210,101**	**–**	**$231,111**
5-year Monitoring & Reporting Period					
5 years of Monitoring and Reporting	Restoration Biologist/ Manager	Qualitative Monitoring Visits (2 per year for Years 1 through 5)	$20,000	10%	$22,000
		Quantitative Monitoring Visits (10 total at 2 per year)	$20,000	10%	$22,000
		Final Inspection	$2,000	10%	$2,200
		Annual Monitoring Reports (5 reports total)	$30,000	10%	$33,000
As-Needed Maintenance	Restoration Contractor	As-needed weed removal visits (5 total)			$30,000
Subtotal			**$72,000**	**–**	**$109,200**
Grand Total			**$535,470**	**–**	**$619,017**