



California Department of Fish and Wildlife
South Coast Region 5
3883 RUFFIN ROAD
SAN DIEGO, CA 92123

California Endangered Species Act
Incidental Take Permit No. 2081-2024-003-05

PHASED CAPITAL IMPROVEMENTS AT LOWER MISSION CREEK

I. Authority:

This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take¹ of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.² However, CDFW may authorize the take of any such species by permit pursuant to the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c). (See Cal. Code Regs., tit. 14, § 783.4.)

Permittee:	Santa Barbara County Public Works Department
Principal Officer:	Chris Sneddon, Santa Barbara County Public Works Director
Contact Person:	Andrew Raaf, (805) 722-7250
Mailing Address:	130 East Victoria Street, Suite 200 Santa Barbara, CA 93101

II. Effective Date and Expiration Date of this ITP:

This ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **April 17, 2036**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's last Annual Status Report required by Condition of Approval 7.6 of this ITP.

¹Pursuant to Fish and Game Code section 86, "'take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 [for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), "'take' ... means to catch, capture or kill".])

²The definition of an endangered, threatened, and candidate species for purposes of CESA are found in Fish and Game Code sections 2062, 2067, and 2068, respectively.

III. Project Location:

The Phased Capital Improvements at Lower Mission Creek (Project) is located within the lower watershed of Mission Creek within the City of Santa Barbara, Santa Barbara County (See Figure 1). The Project is located on Mission Creek between Guitierrez Street and Canon Perdido Street bridges. All bridges are excluded from the Project area.

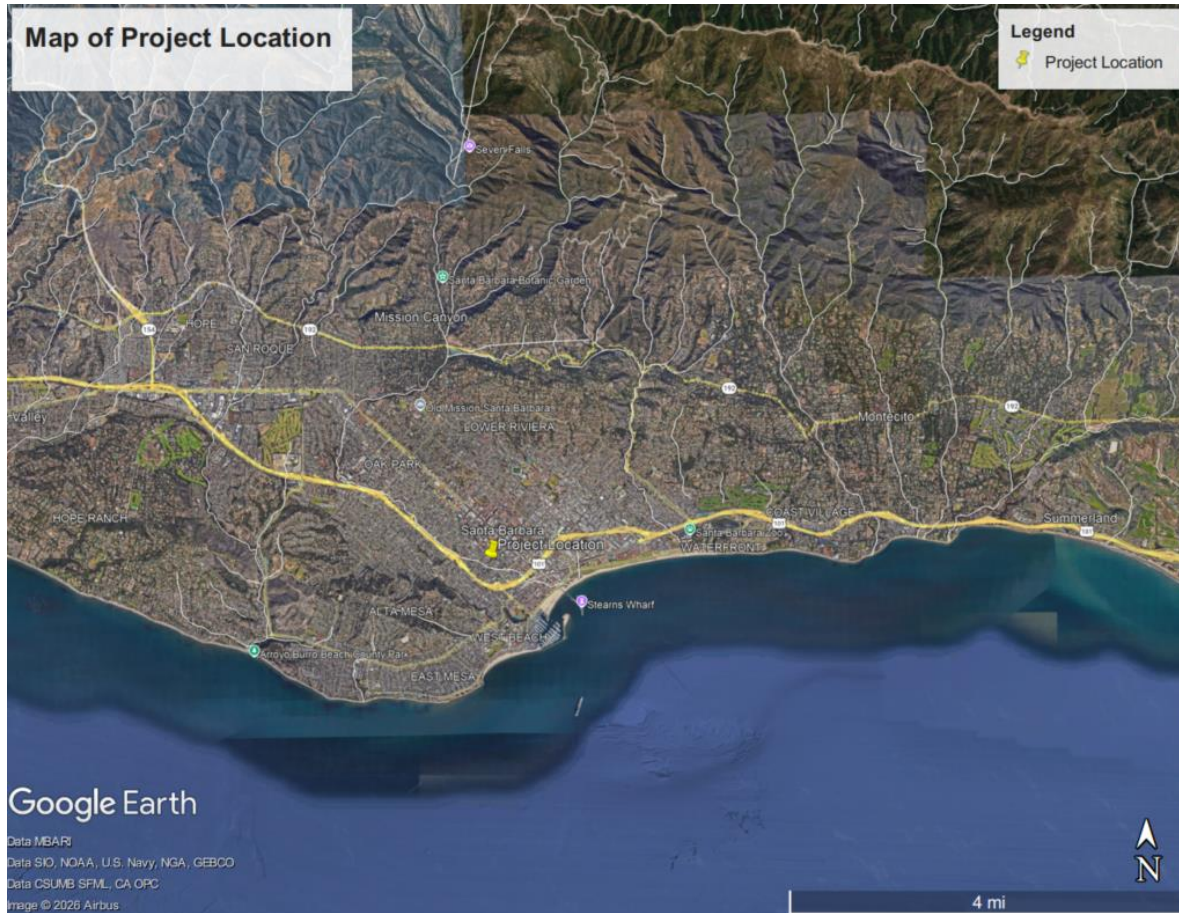


Figure 1. Map of Project Location.

IV. Project Description:

The Project consists of a series of flood control improvements to Lower Mission Creek. There are seven reaches of creek between eight bridges beginning at Cabrillo Boulevard and ending at Canon Perdido Street (Figure 2). Replacement of eight bridges as well as improvements at reaches one through three have already been completed. This ITP only covers Project Activities for reaches four through seven.

Covered Activities for reaches four through seven of the Project consists of: improvements for approximately the last mile of Mission Creek from Canon Perdido

Street Bridge downstream to the Gutierrez Street Bridge; re-grading the bed slope, vegetation removal, removal of old in-stream structures, bank armoring, diversion and dewatering activities, and installing riparian habitat zones above the vertical concrete wall outside of the channel and within the banks of the vertical concrete walls. The Project would increase the channel capacity to 3,400 cubic feet per second (cfs) and would provide approximately a 20-year level of flood protection. The new and wider channel should function to allow a bankfull channel to form over time, resulting in a low flow channel that follows a more natural hydraulic flow for this section of Mission Creek. The creek reaches with natural streambed material would be replaced, while zones with concrete or relict structures would be converted to natural streambed. The lower slopes of the creek will be armored with un-grouted boulders (rip-rap) and streambed material at a 2:1 slope. Sediment will be placed over the rip-rap with a minimum of six inches and planted with native vegetation appropriate to the Mission Creek watershed. Vertical concrete upper walls will be added to increase capacity for flood flows. Habitat features within the Project area will be brought to pre-Project conditions or better. The Project design includes other Covered Species habitat features including a vegetated low flow channel, boulder clusters to create velocity shadows, creation of pool and riffle habitat, non-native plant and animal removal, and removing relict concrete structures from the creek bed.

As an additional aspect of the Project, three small upland parcels will be acquired to expand the upland area planted with creek bank vegetation. Some of these parcels will remain hydraulically disconnected from the stream channel above a concrete wing wall. These upland parcels would be designed to serve a dual purpose: to expand the corridor of upland habitat to be planted adjacent to the stream banks, and to provide for passive park space. Native trees, primarily western sycamores, cottonwoods, and coast live oak from local nursery stock would be planted to form dense clusters adjacent to the stream corridor.

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Figure 2. Project Area

V. Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status ³
1. Southern California steelhead (<i>Oncorhynchus mykiss</i>)	Endangered ⁴

This species and only this species is the “Covered Species” for the purposes of this ITP. With respect to incidental take of the Covered Species, CDFW authorizes the Permittee, its employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species,

³ Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

⁴See Cal. Code Regs., tit. 14, § 670.5, subd. (a)(2)(Q).

except for capture and relocation of Covered Species as authorized by this ITP.

VI. Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include removal of sediment from the river, resuspension of river sediments, riparian vegetation clearing, sediment stockpiling, and mobilizing and using motorized equipment (Covered Activities). Removal of streambed vegetation, accumulated organic materials, and sediments results in decreased Covered Species habitat heterogeneity and species diversity, channel erosion, sedimentation, and an increase in invasive species. Loss of shading by streambed vegetation impacts Covered Species habitat quality through increased weed and algal growth, increased water temperature, increased turbidity, and low oxygen levels.

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as direct contact with or entrainment in construction and dredging equipment during channel construction, crushing, entombing, hydro acoustic stress, thermal stress, and/or stranding. Additionally, the Covered Activities may result in take of the Covered Species due to spilling or discharging of hazardous materials into aquatic habitat, exposure to suspended sediments, removal of aquatic and riparian vegetation and habitat, changes in water temperature, dewatering injuries and death, stress, decreased water quality conditions, loss of food resources, and through the creation of temporary migratory barriers. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of fish rescue and relocation of the Covered Species.

Construction activity would physically block Covered Species access to upstream reaches of Mission Creek, impairing Covered Species spawning, incubation, natural migratory behavior, and emergence for up to 47 days out of the 180-day spawning season (December through May is typical spawning season) per year. Channel grading/dredging would also temporarily reduce the amount of shallow water rearing and foraging habitat accessible to Covered Species. Most of the benthic community at the channel bottom will be impacted by channel grading disturbances and stream compaction. The expected time to recover the stream's benthic community varies from several months to several years for muds, and two to three years for sands and gravels. In addition to causing increased turbidity and suspended solids, grading/dredging operations may affect light transmittance, dissolved oxygen, nutrients, salinity, temperature, pH, concentrations of trace metals and organic contaminants, hydrocarbons, pesticides, and pathogens.

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The Capital Improvement Project is expected to impact 2,600 linear feet/2.5 acres of Covered Species habitat over the 10-year period of this ITP. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations; stress, illness, disease, and/or injury resulting from capture and relocation; illness or injury resulting from exposure to suspended sediments; altered water quality and/or spilled hazardous materials; long-term effects due to increased pollution; displacement from preferred habitat; alteration of habitat suitability; increased competition for food and space; delayed migration; reduction in smolting, over summering, and foraging habitat; and increased vulnerability to predation.

VII. Incidental Take Authorization of Covered Species:

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes the Permittee, its employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species except for capture and relocation of Covered Species as authorized by this ITP.

CDFW cannot quantify the precise number of Covered Species that may be taken as a result of the proposed action but can estimate a range of take that would reasonably occur based on Covered Activities and current knowledge of southern California steelhead populations within the watershed. CDFW must provide an initial limit for all forms of take because if significant amounts of Covered Species are encountered, it indicates that the assumptions about risk were not accurate. Therefore, if ten (10) Covered Species are captured and relocated, the extent of take authorized would be met. One (1) lethal take is authorized by this Incidental Take Permit. If this occurs, Permittee shall contact and consult with CDFW immediately to ensure that no additional take could occur related to the Project. Covered Activities that may result in take shall cease during this consultation because additional take cannot be authorized without amendment of this ITP.

VIII. Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for ingress and egress, staging and parking, and noise and vibration generating activities that may/will cause take.

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CDFW's issuance of this ITP and Permittee's authorization to take the Covered Species are subject to Permittee's compliance with and implementation of the following Conditions of Approval:

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 1998101061) certified by City of Santa Barbara on December 10, 2001 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
- 3. LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Agreement No. 1600-2016-078-R5) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq. Agreement No. 1600-2016-078-R5 is set to expire on December 1, 2026.
- 4. ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Biological Opinion (BO) for the construction and maintenance of flood control channel on lower Mission Creek, Santa Barbara County, California (F-LB-00-23:KAJ) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
- 5. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
- 6. General Provisions:**
 - 6.1. Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact

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information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

- 6.2. Designated Biologist(s) and Biological Monitor(s).** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. The Designated Biologist(s) shall conduct surveys for the Covered Species, conduct capture and relocation activities for the Covered Species, and must be present during the set up and removal of diversion and dewatering activities. The Biological Monitor(s) shall be on site daily while all other Covered Activities are occurring. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.
- 6.3. Designated Biologist and Biological Monitor Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist and/or Biological Monitor shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist and/or Biological Monitor in the performance of his/her duties. If the Designated Biologist and/or Biological Monitor is unable to comply with the ITP, then the Designated Biologist and/or Biological Monitor shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist and/or Biological Monitor that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of

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such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.

- 6.4. Education Program.** Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 6.5. Construction Monitoring Documentation.** The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.
- 6.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.7. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.

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- 6.8. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 6.9. Delineation of Property Boundaries.** Before starting Covered Activities in any reach, Permittee shall clearly delineate the boundaries of the Project Area within the reach where work is to occur with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 6.10. Designated Areas for Stockpiling Materials.** Permittee shall ensure that all construction, sediment, and vegetation materials are stored in CDFW approved locations and clearly delineated within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.11. Project Access.** Project-related personnel shall access the Project Area using existing routes, and shall not cross Covered Species' habitat outside of or in route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 6.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP.
- 6.13. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off site.
- 6.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise

fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.

- 6.15. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

7. Monitoring, Notification and Reporting Provisions:

7.1. Capital Improvements Project Design. No later than one year prior to the initiation of any Capital Improvement construction activities for reaches five through seven, the Permittee shall submit to CDFW for review and approval a plan detailing: (1) construction plans, including the design plans and basis of design reports; (2) surveys for large woody debris (LWD), (3) level three habitat type survey per the habitat inventory procedures set forth in the California Salmonid Stream Habitat Restoration Manual (CSSHRM); (4) a plan to recreate all existing Covered Species habitat features in the construction of the Capital Improvement Project reach; (5) information on timing and duration; (6) biological surveys; (7) geomorphic assessment of Mission Creek; (8) planting palette; (9) dewatering plan; (10) diversion plan; (11) restoration plan; and (12) sediment management plan. Work on each reach is not expected to occur at the same time, thus, this plan shall be provided and tailored to the specific reach where upcoming work is planned for that year. Permittee shall obtain CDFW approval of all items outlined above no later than 30 days prior to initiation of construction activities for each reach.

7.1.1. **Low Flow Channel.** The channel between pools shall be graded with a slight cross slope that reflects the location of the existing thalweg prior to construction. If the thalweg is located along the west bank, the new and wider channel would be graded with a slight grade (one foot or less over the width of the channel) towards the west bank. A low flow channel shall not be graded to a new location.

7.1.2. **Fish Baffle Locations.** Permittee proposes to install rock fish baffles at periodic locations along the channel. The rocks would protrude 18-24 inches above the channel invert. The rock shall be reconfigured as more numerous "rock clusters" in the center of the channel, placed at 100 to 150 foot spacing between pools. The rock cluster would consist of 3 to 5 individual rocks placed in close proximity. The size of the rocks will be

determined during final design. They must be of sufficient size to remain in place during flood flows.

- 7.1.3. Remove Fish Ledges from Design. Fish ledges shall not be in the design for any reach. Ledges could become stranded over time if the low flow channel migrates to the other side of the larger channel, or the channel becomes lower. In these cases, the fish ledges would no longer be effective.
- 7.2. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities for reach five, six, and seven and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 7.3. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.
- 7.4. Compliance Monitoring. The Designated Biologist shall be on site for Covered Species surveys, capture and relocation of Covered Species, and during the installation and removal of diversion and dewatering systems. The Designated Biologist shall conduct compliance inspections a minimum of weekly while Covered Activities are actively occurring. The Designated Biologist shall conduct compliance inspections a minimum of monthly during periods of inactivity. The Designated Biologist shall conduct compliance inspections and be on site to:
- (1) minimize incidental take of the Covered Species;
 - (2) prevent unlawful take of species;
 - (3) check for compliance with all measures of this ITP;
 - (4) check all exclusion zones; and
 - (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

The Biological Monitor shall be on site daily and shall conduct compliance inspections to:

- (1) minimize incidental take of the Covered Species;
- (2) prevent unlawful take of species;
- (3) check for compliance with all measures of this ITP;
- (4) check all exclusion zones; and
- (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

Either the Designated Biologist or the Biological Monitor must be present at all times at the Project site to conduct compliance inspections while Covered Activities are actively occurring in accordance with the terms of this Condition of Approval.

The Designated Representative, Designated Biologist, or Biological Monitor shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.

7.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional CESA Program mailbox is R5CESA@wildlife.ca.gov and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

7.6. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.6; (2) a general description of the status of the Project Area and Covered Activities, including actual work dates, activities by date, and completion

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dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; (7) information about other Project impacts on the Covered Species; and (8) all requirements for the On-Site Adaptive Management Plan for each individual reach covered in this ITP.

7.7. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW’s California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.

7.8. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by emailing Frederic (Fritz) Rieman, Frederic.Rieman@wildlife.ca.gov, and CC R5CESA@wildlife.ca.gov. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

8. Take Minimization Measures: The following requirements are intended to ensure the minimization of incidental take of Covered Species in the Project Area during Covered Activities. Permittee shall implement and adhere to the following conditions to minimize take of Covered Species:

8.1. Establish Pools. Pools shall be established at the locations and in similar design of the existing pools at the time of construction by excavating the channel below the design elevation for the channel bottom. To maintain

these pools, cross-vane rock weirs⁵ shall be installed at the head of each new pool.

- 8.2. Decontamination of Streambed Materials.** Permittee shall decontaminate all streambed materials that are transported to the Project Area from outside the Mission Creek watershed. Permittee shall decontaminate streambed material utilizing one of two methods depending on the size of streambed materials: hot water soak or pressure washing. For all methods, Permittee shall begin the decontamination process by thoroughly scrubbing all streambed materials, paying close attention to small crevices with a stiff-bristled brush to remove all organisms. To decontaminate using a hot water soak, Permittee shall immerse streambed materials in 140°F or hotter water and soak, completely submerged, for a minimum of 5 minutes. If streambed materials are too large to immerse in a hot water bath, Permittee shall decontaminate streambed material through pressure washing with hot water at a minimum of 140°F at the point of contact, or 155°F at the nozzle. Following the hot water wash, Permittee shall drain water and dry all streambed material as thoroughly as possible. Permittee may request additional decontamination methods with CDFW written approval.
- 8.3. Work in Wetted Stream.** No work shall occur in wetted portions of the creek channel, including but not limited to ponded, flowing or wetland areas. Water shall be diverted around work area and/or dewatered in accordance with an approved diversion/dewatering plan prior to initiating work.
- 8.4. Erosion Control.** All erosion and sediment control measures shall be installed prior to Covered Activities. Permittee shall utilize erosion control measures throughout all Stages of the Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a drainage, stream, or ponded area. Permittee shall consult 72-hour weather forecasts from the National Weather Service to avoid starting any Stage of the Project that may result in sediment runoff to a drainage, stream, or ponded area. The Designated Biologist shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately. Following completion of the Project, Permittee shall implement erosion control measures for all disturbed areas.
- 8.5. Hours of Operation and Lighting.** Construction activities shall take place during daylight hours (30 minutes before sunrise to 30 minutes after sunset).

⁵ Rosgen, D.L., 2003. The Cross vane, w-weir, and j-hook structures. Their description, design, and application for stream stabilization and river restoration

8.6. Weather Limitations. Permittee shall restrict work to periods of dry weather. The Permittee shall monitor the National Weather Service 72-hour forecast daily for the Project area. When ¼ inch or more of precipitation is forecasted to occur, the Permittee shall stop work and remove all Project materials, including diversion and dewatering systems, before precipitation commences. Work shall not restart until runoff ceases and there is less than 40 percent chance of rain forecasted for the following 24-hour period.

8.7. Covered Species Relocation. If Covered Species are encountered within the Project Area during Covered Species Pre Activity Surveys, Permittee shall relocate the Covered Species and provide a post relocation report including at minimum the following:

- 8.7.1. The name(s) of Designated Biologist(s) supervising the relocation. The CDFW-approved Designated Biologist shall be present during capture and relocation efforts as required by Condition of Approval 6.2. Biological Monitors may help with Covered Species capture and relocation under the direct supervision of the Designated Biologist.
- 8.7.2. Prior to installation of the temporary creek diversion, the Designated Biologist shall capture and relocate Covered Species to the nearest predetermined release location, approved in advance by CDFW. Release locations shall provide suitable habitat for Covered Species.
- 8.7.3. All dip nets used to capture Covered Species shall be made of a soft braided nylon material that is non-abrasive. Mesh sizing shall be matched to life stages likely encountered.
- 8.7.4. Relocation activities shall be conducted in the morning if maximum daytime air temperatures are expected to exceed 23 degrees Celsius (75 degrees Fahrenheit).
- 8.7.5. Capture Covered Species must be kept in a closable container in an adequate amount of cool, clean, well-oxygenated water (e.g., a cooler with lid containing stream water and a battery-operated air stone). Water temperature shall be monitored and kept below 60 degrees Fahrenheit. If necessary, water shall be cooled with ice without introducing ice-borne chemical contaminants. Transport containers shall have a water volume of no less than 5 gallons. Covered Species density in the transport container shall not exceed 10 Covered Species (40-80mm in length) per gallon of water. Collected Covered Species shall not be anesthetized at any point during relocation.

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- 8.7.6. The Designated Biologist shall reduce stress on the Covered Species to the maximum extent possible. This includes reducing the time that live Covered Species are being captured, handled, and transported.
 - 8.7.7. The Designated Biologist shall record the species name, length, date, time, location, gear type, water temperature, and any other pertinent observations to be included in the Monthly Compliance Report.
 - 8.7.8. Permittee shall preserve dead individuals by freezing or placing in sealed containers with 10 percent formalin solution. Information on time and exact location of any incidental take, method of take, length of time from death to preservation, water temperature, and any other relevant information will be recorded in writing. Permittee shall contact the CDFW regional representative for instructions on transmitting the preserved individuals. Any take of non-covered species shall be documented and included in the Monthly Compliance Report.
 - 8.7.9. After completing the relocation, the Designated Biologist shall prepare a relocation documentation report. The report shall include information on the personnel conducting the relocation; methods used in capture and relocation; numbers and length data of each species collected and relocated; coordinates and habitat description of release location(s); and estimate of the survival immediately after release. Photographs of the site and relocation operations shall be included. The report shall be provided by the Permittee to CDFW in the next Monthly Compliance Report.
- 8.8. Diversion Plan.** Permittee shall submit for approval a water diversion plan for each reach to CDFW at least 30 days prior to initiation of any Covered Activities for reaches five through seven. The diversion plan shall include the following:
- 8.8.1. Permittee shall describe location of diversion points including detailed drawings and geographic coordinates. Plans should include protection at the outlet if scour is possible.
 - 8.8.2. Permittee shall describe the step-by-step installation and removal method.
 - 8.8.3. Permittee shall describe materials to be used in the temporary diversion system. The Permittee shall construct temporary dams to redirect flows using non-erodible materials.

- 8.8.4. When the cofferdam or temporary creek diversion is being constructed, maintained, or placed in operation, sufficient water shall be allowed to pass downstream of the excavation to maintain aquatic life downstream. Flow shall be of sufficient quality, quantity and temperature to support fish and other aquatic species both above and below the diversion. Permittee shall inspect temporary diversion system daily and immediately repair any insufficiencies.
- 8.8.5. Turbidity levels in the stream, resulting from project related activities, shall not exceed 20 percent over background turbidity if background is 0-50 Nephelometric Turbidity Unit (NTU) or 10 percent over natural turbidity levels if turbidity levels are over 50 NTU as measured 200 feet upstream of the project site. Turbidity levels shall be routinely monitored and evaluated. If turbidity exceeds the above turbidity thresholds, Covered Activities shall be halted until effective measures have been implemented in coordination with CDFW.
- 8.8.6. The Designated Biologist shall monitor the installation of diversion system and monitor daily while the diversion system is installed. The Designated Biologist shall look for entrainment or stranding of Covered Species through the project reach as well as up and downstream.
- 8.8.7. Temporary creek diversion systems shall remain in place and functional throughout the construction period and removed when rain is expected as described in Condition of Approval 8.6. If the diversion fails, Permittee shall repair it immediately. Permittee shall remove the diversion and restore natural flows immediately upon completion of work at that location.
- 8.8.8. Reintroduction of stream flows shall be gradual to the isolated work area to prevent stranding, channel instability, and scour. The Designated Biologist shall monitor upstream and downstream to ensure no Covered Species are stranded or in distress during reintroduction of flows.
- 8.9. Dewatering Plan.** If flowing water is present or reasonably anticipated, the Permittee shall submit to CDFW for written approval a detailed dewatering plan for each reach at least 30 days prior to initiation any Covered Activities for reaches five through seven. The Permittee may not commence dewatering activities without written approval from CDFW. During all dewatering activities, the Designated Biologist shall monitor dewatering at all times within the de-watering area and upstream and downstream of the Project site to ensure no Covered Species are stranded or in distress during reduction of flows.

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8.10. Water Pump Screening. All water pumping or withdrawal at the Project site shall comply with 1997 National Marine Fisheries Service (NMFS) Fish Screening Criteria for Anadromous Salmonids, where applicable, to avoid entrainment of fish. The criteria include but are not limited to the following:

8.10.1. Screen design must provide for uniform flow distribution over the surface of the screen;

8.10.2. Screen material openings shall not exceed 3/32 inches for fry sized salmonids and shall not exceed 1/4 inches for fingerling sized salmonids;

8.10.3. If pumps are necessary for dewatering, appropriate fish screening shall be implemented to avoid entrainment. Screen material may be constructed of any rigid woven, perforated, or slotted material that provides water passage while physically excluding fish. Round openings in the screen shall not exceed 3/32-inch diameter, square openings shall not exceed 3/32-inch measured diagonally. Approach velocity shall not exceed 0.33 feet per second.

8.10.4. The screen shall be constructed at the diversion entrance. The screen face shall be generally parallel to river flow and aligned with the adjacent riverbank; and

8.10.5. The design approach velocity shall not exceed 0.33 feet per second for fry sized salmonids or 0.8 feet per second for fingerling sized salmonids;

8.11. 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 and/or waterbody to another. If decontamination is not done on site, Permittee shall transport contaminated equipment in sealed plastic bags and keep separate from clean gear. When practical, in flowing water Permittee shall begin work upstream and work downstream. This avoids transporting aquatic invasive species to non-infested upstream areas. For locations known to be infested with invasive species, Permittee shall use dedicated equipment that is only used in infested waters. Permittee shall store this equipment separately. 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> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website:

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<http://www.protectyourwaters.net/>. Any bullfrog sightings shall also be reported to the American Bullfrog Observation Report Database located at: <https://survey123.arcgis.com/share/a9ffc04db86e41a19e550f8be00a23ab>. Any aquatic invasive species encountered shall be removed from the waterway and disposed of in a manner where they cannot re-enter the stream system.

- 8.12. Concrete Curing.** All concrete used shall be excluded from the wetted channel or areas where it may come into contact with water for a period of 15 days after it is poured/sprayed. Commercial sealants may be applied to the poured concrete surface where difficulty in excluding flow for a long period may occur. If sealant is used, the proponent shall follow the instructions as noted on the product label. As an alternative, water quality testing and analysis may be conducted in coordination with CDFW. Results shall be submitted and accepted by CDFW prior to removal of the temporary diversion system that will re-introduce flows to new concrete.
- 8.13. Inspection of Project Equipment.** Permittee shall inspect all vehicles, watercraft, tools, waders and boots, and other Project-related equipment and remove all visible soil/mud, plant materials, and animal remnants, and drain all water, prior to entering and exiting the Project site and/or between each use in different waterbodies.
- 8.14. Decontamination of Project Equipment.** Permittee shall decontaminate all tools, waders and boots, and other equipment that will enter the water prior to entering and exiting the Project site and/or between each use in different waterbodies to avoid the introduction and transfer of organisms between waterbodies. Permittee shall decontaminate Project gear and equipment utilizing one of three methods: drying, using a hot water soak, or freezing, as appropriate to the type of gear or equipment. For all methods, Permittee shall begin the decontamination process by thoroughly scrubbing equipment, paying close attention to small crevices such as boot laces, seams, net corners, etc., with a stiff-bristled brush to remove all organisms. To decontaminate by drying, Permittee shall allow equipment to dry thoroughly (i.e., until there is a complete absence of water), preferably in the sun, and keep dry for a minimum of 48 hours. To decontaminate using a hot water soak, Permittee shall immerse equipment in 140°F or hotter water and soak, completely submerged, for a minimum of 5 minutes. To decontaminate by freezing, Permittee shall place equipment in a freezer 32°F or colder for a minimum of 8 hours. Repeat decontamination is required only if the

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equipment/clothing is removed from the site, used within a different waterbody, and returned to the Project site or different waterbody.

- 8.15.** Decontamination of Vehicles and Heavy Equipment. Permittee shall decontaminate vehicles, watercraft, and other Project-related equipment too large to immerse in a hot water bath by pressure washing with hot water a minimum of 140°F at the point of contact or 155°F at the nozzle. Additionally, Permittee shall flush equipment engines and all areas that could contain standing water (e.g., live wells, bilges, etc.) for a minimum of 10 minutes. Following the hot water wash, Permittee shall drain water and dry all vehicles, heavy equipment, watercraft, and other large equipment as thoroughly as possible.
- 8.16.** Decontamination Sites. Permittee shall perform decontamination of vehicles, watercraft, heavy equipment, and other Project gear and equipment in a designated location where runoff can be contained and not allowed to runoff the site areas into streams and other sensitive habitat areas. Rinse water shall be disposed of at least 1000 feet from any surface water.
- 8.17.** Pollutants. Stationary equipment such as motors, pumps, generators, compressors and welders, located within or adjacent to the stream channel shall be positioned over drip pans. Any equipment or vehicles driven and/or operated within or adjacent to the stream channel must be checked and maintained daily, to prevent leaks of materials that if introduced to water could be deleterious to aquatic life. 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 unless the appropriate spill prevention measures are in place such as catch basins or drip pans, lined with an impermeable layer that has been placed under the equipment. Building materials and/or construction equipment shall not be stockpiled or stored where they may be washed into the water or cover aquatic or riparian vegetation. Stockpiles shall be covered when measurable rain is forecasted. All removed spoils and construction debris shall be moved to areas where it may not permit to pass into, or place where it can pass into waters of the State in accordance with Fish and Game Code Section 5652.
- 8.18.** 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 photos and a completed Suspect Invasive Species Report (available online at:

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<https://www.wildlife.ca.gov/Conservation/Invasives/Report>) or emailing the Invasive Species Program 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.

- 8.19. No Introduction of Invasive Plants.** Permittee shall not plant, seed, or otherwise introduce any plants listed on any list (High, Moderate, Limited, and Watch lists) in the California Invasive Plant Council's Invasive Plant Inventory: <http://www.cal-ipc.org/ip/inventory/index.php> in the areas within or adjacent to the Project site.
- 8.20. Pesticide Use.** Permittee shall not use pesticides such as herbicides, insecticides, or rodenticides within the Project Area. If pesticides must be used, including for habitat restoration and enhancement, Permittee shall consult with CDFW and may only use pesticides upon CDFW's written approval.
- 8.21. Covered Species Injury.** If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 7.9. Notification shall include the name of the facility where the animal was taken.

9. On-Site Adaptive Management Plan: CDFW has determined that adaptive management of habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide adequate compensation.

To meet this requirement, the Permittee shall provide an On-Site Adaptive Management Plan (AMP) for each reach pursuant to Condition of Approval 9.1 below and the calculation and deposit of the management funds pursuant to Condition of Approval 10.1 and 10.2 below. The AMP for reach four must be provided by July 14, 2026, and one year prior to starting Covered Activities for

reaches five, six, and seven. Security shall be provided for reach four by August 13, 2026. Security shall be provided six months prior to starting Covered Activities for reaches five, six, and seven.

9.1. Adaptive Management Plan. Permittee shall provide CDFW with an AMP for reach four, five, six, and seven for review and approval. The AMP for reach four shall be submitted to CDFW by July 14, 2026 and the AMP for reaches five, six, and seven shall be submitted no later than one year prior to the initiation of any Capital Improvement construction activities for each respective reach. Permittee shall obtain CDFW approval of the AMP for reach four by August 13, 2026 and the AMP for reach five, six, and seven no later than 60 days prior to initiation of constructions activities for each respective reach. The AMP shall include the establishment of measurements to determine if conservation actions are being implemented in each reach roughly proportional in time and extent to the impact on the Covered Species. The AMP shall include a schedule for conducting monitoring activities prior to the start of the year's monitoring efforts in each reach and continue monitoring for each reach for a minimum of five years after Project Activities are completed in a reach, until success criteria has been achieved showing mitigation is satisfying the fully mitigated standard, and Permittee has received CDFW signoff. All requirements for the AMP shall be reported in the Annual Status Report as required in Condition of Approval 7.6. Permittee shall use the results of new information gathered through the monitoring program of the AMP and from other sources to adjust management strategies and practices to assist in providing the conservation of the Covered Species. Permittee shall identify adaptive management strategies based on consultation with CDFW, and other sources, which will assist in providing for the Covered Species within Mission Creek watershed. The AMP shall identify strategies to: (a) provide additional or alternative contributions to the conservation of the Covered Species within the watershed after each reach; (b) ensure the mitigation(s) continue to satisfy the conservation standard and the fully mitigated standard; and (c) contain the following:

9.1.1. Lower Mission Creek Revegetation. The Permittee shall actively revegetate Mission Creek after completion of each Project reach. Only the low flow channel does not need to be re-vegetated. A Lower Mission Creek Revegetation Plan shall be submitted to CDFW for approval that contains: (1) vegetation maps of Lower Mission Creek with a species compendium; (2) vegetation maps and species compendium for reference sites; (3) a seed collection plan; and (4) a plan to grow or contract grow these species so they are readily available for the duration

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of the ITP. The Lower Mission Creek Revegetation Plan shall contain quantitative five-year Success Criteria, including species diversity by vegetation layer, based on approved reference conditions.

- 9.1.2. Invasive Plant Management Plan. Permittee shall submit to CDFW for its review and approval an Invasive Plant Management Plan. The Invasive Plant Management Plan shall contain methods to eradicate existing invasive plants (defined as any plants listed as High, Moderate, Limited, and Watch lists in the California Invasive Plant Council's Invasive Plant Inventory: <http://www.cal-ipc.org/ip/inventory/index.php>) within each reach with a 500 foot buffer upstream and downstream. To minimize the spread of invasive plant species to un-infested areas within and outside of the Project site, Permittee shall implement control and eradication activities prior to the initiation of ground-disturbing activities. Permittee shall utilize control and eradication methods that are specific to the target species, avoid the spread and proliferation of other invasive plant species, and minimize damage to and/or removal of native plant species. All nonnative and invasive plants controlled or eradicated at the Project site shall be removed and disposed of in a manner that prevents the introduction and establishment of those species to new areas. This plan shall also contain mapping, monitoring and reporting requirements for Lower Mission Creek to the mouth of the stream with the ocean.
- 9.1.3. Geomorphic Processes Monitoring. Permittee shall develop a monitoring plan in coordination with CDFW and NMFS to monitor and adaptively manage substrate and LWD within each Project reach. Materials from the stream cleanouts shall be used to maintain numerical targets for LWD and gravel based on reference reach sampling.
- 9.1.4. Benthic Macroinvertebrate Monitoring (BMI) and Index of Biological Integrity (IBI) Monitoring. Permittee shall submit to CDFW for its review and approval a comprehensive annual BMI and IBI Monitoring Plan. The BMI and IBI Monitoring Plan shall contain sampling locations upstream of the Project Area as control sites.
- 9.1.5. Annual Pebble County Monitoring. Permittee shall submit to CDFW for its review and approval a comprehensive annual pebble count survey. The pebble county survey shall contain sampling locations upstream of the Project site as control sites.
- 9.1.6. Annual Vegetation Map and Botanical Species Compendium. Permittee shall submit to CDFW for its review and approval an annual vegetation

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map and botanical species compendium of the Project Area. The vegetation map shall use alliances and the botanical species compendium shall be conducted in April.

9.1.7. Covered Species Habitat Assessment Surveys. Permittee shall submit to CDFW for its review and approval a comprehensive annual habitat assessment survey of Mission Creek through the Project Area. The habitat assessment surveys shall utilize the habitat inventory procedures set forth in the CSSHRM. Habitat typing shall be conducted at level three or greater.

9.1.8. Aquatic Species Surveys. Permittee shall submit to CDFW for its review and approval a comprehensive annual aquatic species survey. The aquatic species survey shall utilize the stream bank observation procedures set forth in the CSSHRM.

9.1.9. Stream De-compaction Plan. Permittee shall provide a plan for CDFW review and approval a plan to de-compact areas within Mission Creek that will be operated on by heavy machinery. The Plan shall include the following: (1) method to remove decompaction; (2) plan to photo documentation before heavy machinery usage, after heavy machinery usage, and post de-compaction; and (3) monitoring of site one year after.

9.1.10. Fish Passage Effectiveness Monitoring. The Project site shall be monitored annually using NMFS Fish Passage Criteria for adult and juvenile southern California steelhead to ensure Covered Species fish passage is maintained. Permittee shall submit a plan for CDFW approval that contains at a minimum: (1) monitoring to coincide with periods of elevated stream flows that would reasonably represent passage conditions for the Covered Species; (2) includes a meaningful sediment monitoring component; (3) as well as measurements and reporting for all of NMFS steelhead passage criteria (NMFS 2008). The results of this annual monitoring effort shall be included in the Annual Status Report. To represent discharge conditions during the steelhead migration season, the effectiveness monitoring shall be conducted December 1 through May 31 and when the Mission Creek USFS Gage (11119770) instantaneous flow exceeds 20 cfs for a period of 2 or more hours. If the target discharge conditions occur more than one time in a calendar month, Permittee is only required to conduct effectiveness monitoring one time per month.

9.1.10.1. When effectiveness measurements indicate that NMFS steelhead-passage criteria are not satisfied or steelhead are found stranded in a flood control maintenance reach, the Permittee shall notify CDFW in

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writing no later than 48-hours after making this determination regarding the passage criteria or steelhead stranding. Subsequent to the notification, the Permittee shall undertake the necessary corrective action(s), within Permittee's control, that would lead to attainment of the steelhead-passage criteria and that eliminate or fully minimize the likelihood of stranding. The corrective action(s) shall be undertaken no later than 12-months following the determination that steelhead-passage criteria are not attained or the finding of a stranded steelhead.

9.1.11. Funding Guarantee. Permittee shall ensure the AMP for each reach has proper funding to complete mitigation requirements. Permittee shall provide a cost-estimate analysis for estimated costs for the AMP and provide a funding source that guarantees the AMP for each reach can be funded through the life of the ITP and AMP and until success criteria has been completed with CDFW approval. The cost-estimate analysis shall be provided when the AMP is due for its specific reach as mentioned in Condition of Approval 10.1 and 10.2.

9.2. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

10. Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

10.1. Security Amount for Reach Four. Security for reach four shall be provided by August 13, 2026. The Security amount will be determined through a cost-estimate analysis and provided in the AMP that shall be provided by July 14, 2026 and approved by CDFW. This amount is based on the cost estimates identified in Condition of Approval 9.1 and shall be sufficient for CDFW or its contractors to complete the AMP for reach four.

10.2. Security Amount for Reaches Five, Six, and Seven. Security shall be provided six months prior to starting Covered Activities for reaches five, six, and seven. The Security amount shall be determined through a cost-estimate analysis and provided in the AMP that will be provided one year prior to starting

Covered Activities at each reach. The AMP will be approved by CDFW prior to the start of Covered Activities in that reach. This amount is based on the cost estimates identified in Condition of Approval 9.1 and shall be sufficient for CDFW or its contractors to complete the AMP for reaches five, six, and seven.

10.3. Security Form. The Security shall be in the form of an irrevocable letter of credit or other form of financial security approved by CDFW (see Attachment 3).

10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.

10.5. Security Transmittal. Permittee shall transmit security to CDFW by way of a letter of credit.

10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.

10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

- All AMP monitoring reports and surveys; and
- Timely submission of all required reports.

Even if Security is provided, the Permittee must provide copy of payment receipt within six months of starting Covered Activities for reaches five, six, or seven and by August 13, 2026 for reach four. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

IX. Amendment:

This ITP may be amended as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable law. This ITP may be amended without the concurrence of the Permittee as required by law, including if CDFW determines that continued implementation of the Project as authorized under this ITP would jeopardize the continued existence of the Covered Species or where Project changes or changed biological conditions necessitate an ITP amendment to ensure

that all Project-related impacts of the taking to the Covered Species are minimized and fully mitigated.

X. Stop-Work Order:

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, regardless of whether that species is a Covered Species under this ITP. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 30 additional days.

If Permittee fails to remedy the violation or to comply with a stop-work order, CDFW may proceed with suspension and revocation of this ITP. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

XI. Compliance with Other Laws:

This ITP sets forth CDFW's requirements for the Permittee to implement the Project pursuant to CESA. This ITP does not necessarily create an entitlement to proceed with the Project. Permittee is responsible for complying with all other applicable federal, state, and local law.

XII. Notices:

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2024-003-05) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Erinn Wilson-Olgin, Regional Manager
California Department of Fish and Wildlife
3883 Ruffin Road
San Diego, CA 92123
(562) 900-8138
Erinn.Wilson-Olgin@wildlife.ca.gov

and a copy to:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, CA 94244-2090
CESA@wildlife.ca.gov

Unless Permittee is notified otherwise, CDFW's Regional Representative for purposes of addressing issues that arise during implementation of this ITP is:

Fritz Rieman
3030 Old Ranch Parkway, Ste. 400
Seal Beach, CA 90740
(562) 619-0605
R5CESA@wildlife.ca.gov
Frederic.Rieman@wildlife.ca.gov

XIII. Compliance with the California Environmental Quality Act:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, City of Santa Barbara. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Lower Mission Creek Flood Control EIR, (SCH No.: 1998101061) dated December 28, 1999, that the City of Santa Barbara certified for Phased Capital Improvements and Routine maintenance at Lower Mission Creek on December 10, 2001. At the time the lead agency certified the EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's EIR for

the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

XIV. Findings Pursuant to CESA:

These findings are intended to document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations. (Fish & G. Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subds, (a)-(b), 783.5, subd. (c)(2).)

CDFW finds based on substantial evidence in the ITP application, EIR, BO, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) AMP; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the funding of enhancement habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, AMP, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to

the impacts of the taking authorized by this ITP;

- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

XV. Attachments:

FIGURE 1	Map of Project Location
FIGURE 2	Project Area
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Letter of Credit Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON APRIL 17, 2026

DocuSigned by:

 B6E58CFE24724F5...

Erinn Wilson-Olgin, Regional Manager
South Coast Region

Incidental Take Permit
 No. 2081-2024-003-05
SANTA BARBARA COUNTY PUBLIC WORKS DEPARTMENT
PHASED CAPITAL IMPROVEMENTS AT LOWER MISSION CREEK

[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. \$**[dollar number]** **[(dollar amount)]**

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

Dear Sirs:

1. At the request and on the instruction of our customer, **[name of applicant]** ("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. \$**[dollar number]** **[(dollar amount)]** ("Principal Sum").
2. We are informed this Credit is and has been established for the benefit of CDFW pursuant to the terms of the incidental take permit for the **[name of project]** issued by CDFW to the Applicant on **[date]** (No. **[number]**) ("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 **[numbers]** 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: [***name and address of applicant***].

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.
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 of the above-referenced 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”]